SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO
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Coordination Proceeding	) JCCP No. 4042
Special Title (Rule 1550(b))	)
In re TOBACCO CASES II	)
This document relates to: The People of the State of California, et al. v. Philip Morris, Incorporated, et al., Los Angeles Superior Court Case No. BC 194217;	)
The People of the State of California, et al. v. General Cigar Co., et al., San Francisco Superior Court Case No. 996780;	)
The People of the State of California, et al. v. Brown & Williamson, et al., San Francisco Superior Court Case No. 996781; and	)
The People of the State of California, et al. v. Tobacco Exporters, et al., San Francisco Superior Court Case No. 301631.	)

DEPOSITION OF
APRIL ROESELER

March 21, 2000

REPORTED BY: TERRI NESTORE, CRR, RMR, CSR 5614 #05-90592

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO
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Coordination Proceeding) JCCP No. 4042
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BE IT REMEMBERED that, pursuant to Notice, and on Tuesday, March 21, 2000, commencing at 9:55 a.m. thereof, at the State of California Department of Health Services, Tobacco Control Section, 601 North 7th Street, Sacramento, California 94234-7320, before me, TERRI NESTORE, RMR, CRR, a Certified Shorthand Reporter, personally appeared

APRIL ROESELER

called as a witness by the defendants, who, having been first duly sworn, was examined and testified as follows:

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EXAMINATION BY MR. L'ORANGE

MR. L'ORANGE: Q. Could I have your full name for the record, please.

A. April Roeseler.

Q. Ms. Roeseler, this morning we're going

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to be
taking your deposition for most of the day.
Did you have an opportunity to speak with a
representative from the Attorney General's office about
your deposition, prior to appearing here this morning?
A. Yes, I did.
Q. If I may ask, have you had your deposition
taken before?
A. No.
Q. First time?
A. Yes.
Q. Let me review the bidding with you a little
bit, albeit you've already talked to an attorney, to
make sure you and I are on the same wavelength as we go
through the proceeding.
I will ask a series of questions and request
that you respond out loud and in words. Please, if you
would, try and avoid shakes of the head or responding
with "uh-huhs" or "uh-uhs." The reason I ask that is
the lady sitting to my left is taking down everything
that you and I say. It will be transcribed into a
booklet and you will be given an opportunity at some
later date to review the booklet. It's important that
we get accurate testimony, and shakes of the head or

nuances in speech sometimes get recorded inaccurately,
so it is important that you respond in words.
When you get the booklet, you can review it
and decide to make any changes you so desire. One thing
you need to keep in mind is that if this matter proceeds
to trial, and it appears that it will, I or any of the
attorneys sitting in the room can make comments on your
changes to a judge and he can draw any inference from
our comments that he deems advisable.
From time to time some of my questions are
going to appear convoluted, disorganized, inane; in many
instances unintelligible. It is not intentional.
My questions are not going to be

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designed to
trick or mislead you in any way, but this is the procedure by which the law allows us to get information which may be solely within your purview.

If I ask you a question and it is difficult to decipher or understand, please tell me and I will rephrase the question.

I am entitled to your best estimate under the law, and I may be asking you, if you would, to estimate numbers of figures or something like that.

None of us want guesses or speculation on the record. If you feel that I am asking you to guess or speculate, tell me, and we'll either try and get at the information a different way or we'll rephrase the question or we'll drop the matter entirely.

This is your deposition. Any time you want

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to take a break, you tell me and we'll do that.

I would ask you at all times, largely because of the ventilation system and we're in a fairly large room here, if you would try to keep your voice up so everyone can hear you, particularly the court reporter.

This is a fairly informal procedure but the testimony you give here today carries the same force and effect as if you were testifying in a court of law, so any penalty for perjury that one might find in a court of law is equally applicable under this situation.

Any questions about what I've covered so far?

A. No.

Q. Could you briefly outline for us your educational background.

A. I have a bachelor's degree in nursing and a master's degree in public health.

Q. Have you taken any courses or any credit towards a Ph.D. at all?

A. No.

Q. Is there any area of specialization within your master's?

A. Health education.

Q. Could you briefly outline for me the nature

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of employment that you had prior to becoming employed at the Tobacco Control Section.

A. I worked as a nurse for the Indian Health Service, I worked as a nurse for the US Bureau of Prisons, I worked as a public health nurse in a rural

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area of Missouri, I worked on some cancer nursing research projects, I worked as a health educator for the University of Missouri, I worked as a health educator for Yolo County Health Department, and I worked as a health educator for the Office of Aids at the State Department of Health Services.

Q. When did you first become employed at the Tobacco Control Section?

A. In late 1989.

Q. Can you tell me what the position was that you were initially hired into.

A. Health Education Consultant II.

Q. And what does a Health Education Consultant II do?

A. We prepare requests for applications to put money out on the streets so people can do health education projects, we write guidelines for local health departments so that they can conduct health education programs, we provide trainings and provide technical assistance, we run specialized campaigns, we prepare educational materials.

Q. When you were initially hired by the Tobacco Control Section, was that as a result of the passage of Proposition 99?

A. I'm not quite sure as a result.

Money came into the department.

Q. Your position was one that was funded by funds that came in through Proposition 99, would that be

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a fair characterization?

MR. MANSFIELD: If you know.

THE WITNESS: Yes.

MR. L'ORANGE: Q. Now since joining the section in late 1989, could you list for me in chronological order the positions you've held within the

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section.
A. Health Education Consultant II and Health Education Consultant III supervisor.
Q. And...?
A. That's it.
Q. For how long were you a Health Education Consultant II?
A. In the Tobacco Control Section?
Q. Yes.
A. For approximately five years.
Q. And the remaining five years you've been at Grade III?
A. Um-hum.
Q. "Yes"?
A. Yes.
Q. During the course of the first five years when you were Grade II, did you undertake any special preparation or any special training courses or any other special educational courses to assist you in performing your duties?
A. I attended trainings offered by outside agencies.

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Q. Can you give me some idea of who the outside agencies were who were providing you the training?
A. Stanford University.
Q. Anything else?
A. That's all I recall.
Q. And can you give me some idea as to the type of training that Stanford provided?
A. It was on tobacco control strategies related to work site issues, policy issues, tobacco industry tactics.
Q. And when did the training take place?
A. Probably the summer of 1999. 1990.
Q. 1990, okay. One session, or was it a series of sessions over the summer?
A. It was one session.
Q. How long?
A. I think it was three days.
Q. Now for the second five-year period when you were a Grade III, again, any special training or educational courses that you undertook to help you perform your duties?
A. I participate in National Tobacco Control Conferences.
Q. How often -- I'm sorry, I didn't mean to cut

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you off.
A. They're approximately every year.
Q. And are these rotated through the country or is there a particular location they are had in?

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A. They're located throughout the country.
Q. For how long do these conferences last?
A. They're typically around three or four days.
Q. Is your role as a participant or do you present materials as well?
A. Both.
Q. And have you done approximately one of these conferences a year for each of the five years that you've been a Grade II or III?
A. I can recall maybe up until about four.
Q. Can you describe for me generally what is covered in these national tobacco conferences?
A. There's information on secondhand smoke issues, there's information on tobacco advertising and promotion campaigns, there's information on youth access to tobacco issues, there's information on evaluation, there's information on conducting media campaigns, there's information on working with special populations.
Q. During the five years that you attended the national conferences, have you ever presented material with respect to your job duties in the California program under Prop 99?
A. Yes.
Q. Can you tell me what the nature of those presentations or the presentation was?
A. I've given presentations on a campaign that we ran called Operation Storefront. I've given presentations on how to get money out into the community

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and how to monitor contracts at the local level.
I've conducted workshops on what you do after a local tobacco control policy is enacted; how you facilitate the enactment or enforce compliance with that local tobacco control policy.
Q. In the national conferences have you presented any material on secondhand smoke or environmental tobacco smoke?
A. As part of the workshop that I did on what you do after a local tobacco control law passes, we

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utilized AB 13 as our -- as an example sample piece.
Q. Do you have a recollection of approximately when that presentation took place?
A. I think it was 1997.
Q. Other than the presentation with respect to AB 13 and ETS, have you made any other formal presentations, whether at the national tobacco conference or some other conference where you have presented material dealing with how your section has handled ETS issues?
A. I've given broad overviews of how our section works, and secondhand smoke is a priority area, so in discussing a priority that we have, I've discussed it.
Q. And can you give me an estimate as to the number of times you made these types of presentations?
A. This is at the national level?
Q. Well, all right, let's start with national and then we'll move down from there.

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A. Five to ten.
Q. And these would be presentations outside of the national tobacco conference, but another national conference where you had a chance to make a presentation?
A. Or meetings.
Q. What about at the state level; have you had opportunities to present ETS analyses or explanations of how your section handles ETS issues to groups or organizations within the State of California?
A. I would say generally not.
Q. How about regionally; any regional coalition of states that are looking at the California program, where you've had an opportunity to present an analysis of how California has handled ETS issues?
A. Regional coalitions of states?
Q. Yes.
A. Yes.
Q. Can you give me an estimate of the number of times you may have made an ETS presentation, or presentations that may have been concerned in part with ETS at a regional presentation or a regional meeting?
A. We're talking -- it sounds like you're

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talking about big meetings. I mean we have telephone conference calls.

Q. It does. Let me rephrase the question. What I'm trying to get a handle on is the number of either national, state, or regional meetings

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where a large number of people will come together and you have an opportunity to make a presentation on how TCS has handled secondhand smoke issues, and then we'll work our way down a little bit to conference calls and so forth.

MR. MANSFIELD: Can you describe "large" for her.

MR. L'ORANGE: Oh, more than 20 people.

THE WITNESS: Then I would say that in terms of presentations to regional state meetings, that I have not specifically discussed secondhand smoke issues.

MR. L'ORANGE: Q. Now any meetings of 20 people or more within the state of California where you have been called upon or volunteered to make a presentation about ETS issues?

A. No.

Q. Now you mentioned that from time to time there are conference calls that take place where ETS issues are discussed?

A. There are telephone conference calls, there are people who solicit technical assistance from California, and I respond to those technical assistance requests, or on conference calls when people are talking about strategies, about how California has dealt with certain issues.

Q. Are these conference calls that take place with state representatives or private individuals outside of the state of California?

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A. Both.

MR. L'ORANGE: Let me have you mark the deposition notice as Exhibit 115 for Ms. Roeseler.

(Defendants' Exhibit 115 was marked for

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identification)
MR. L'ORANGE: In addition to marking the deposition notice, the record should reflect that there were a number of conversations and faxes exchanged last week with the plaintiffs' counsel about attending the deposition of Asher & Partners. Mark Todzo and Brian Brookey both advised over the telephone that they would not be attending that deposition.
Each party was served with a deposition notice of today's deposition and were advised that the depositions of the State of California representatives were going forward. We received no response to those telephone calls, but their absence at the deposition would suggest that they don't intend to participate or attend any of these proceedings.
We will contact them at the conclusion of today's deposition, readvise them that all of the depositions are going forward, and again advising them as to the location and they can decide whether they want to participate or not.
Q. During the time that you have been with the Tobacco Control Section, have you attended any special educational courses or special lectures that pertain to the topic of environmental tobacco smoke?

A. Yes.
Q. Could you give me an estimate of about how many of these lectures or presentations you attended?
A. Five.
Q. And would that be over the ten years, or are these grouped more recently in the last couple of years?
A. I would say over the ten years.
Q. Approximately how long was each presentation or lecture?
A. It varies. Generally these are things that are sessions within a larger training that's occurring, so it could be a training that lasted two days that

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dealt entirely with secondhand smoke, or it could be a presentation that was an hour-and-a-half long.

Q. Have you read any written material, medical articles, epidemiological studies, any analyses of that nature that deals with secondhand smoke?

A. Yes.

Q. Is that something that's a regular part of the job duties that you've executed either as a Grade II or a Grade III, during the time that you've been with the Tobacco Control Section?

A. It's not part of the duty statement.

Q. But it's something you do in the course of carrying out your duties?

A. Correct.

Q. Do you at any time consult with epidemiologists regarding any aspect of the studies that

you've reviewed in the course of executing your duties?

A. I have not.

Q. Do you have a current title for the position you hold within TCS?

A. I'm the chief of local programs.

Q. And for how long have you been chief of local programs?

A. Five years.

Q. Can you describe for me what the job description or the job duties are for the chief of local programs.

A. I oversee the local programs unit. We have approximately 12 staff in the unit. We oversee the local lead agency program and the competitive grantee program that provides funding to local community based organizations and health departments to conduct tobacco control programs at the regional and statewide level.

We put out RFPs, we negotiate contracts, we oversee those contracts, we provide training and technical assistance to our contractors, and we run specialized campaigns.

Q. When you talk about overseeing local lead agencies and competitive grantees, what are the duties

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that you or your staff do in overseeing these entities?

A. Each staff person, including myself, has anywhere from 15 to 20 contracts that we personally manage along with a contract manager, and my staff oversee the program end of that.

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So people submit applications that are competitively reviewed. Those that reach a high enough score are then negotiated into a contract.

Then there are contract obligations. People have to submit progress reports. We monitor the contracts to see that they are performing the activities that they said that they would in the contract, we're providing the technical assistance on areas that they're having challenges with, and occasionally we have issues where we have contract management problems that we deal with, in terms of contract performance, and we deal with that.

Q. What type of technical assistance do you provide to your contractees to assist them in executing their contracts in the field?

A. We provide them articles, things from the literature, refer them to other agencies that have dealt with the same issue, help them problem solve, help them find resources and materials, hook them up with training that they might need to improve their skills in a certain area.

Q. When you say you refer them to other agencies that may have had the same problem, do you mean other grantees that have run into the same problem, and they can discuss how that grantee resolved it?

A. That's some of the referrals.

Q. Do referrals go elsewhere? When you talk about other agencies, do you mean other state agencies?

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A. There are voluntary health associations or there can be -- you know, like Heart, Lung Cancer.

Q. American Heart?

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A. Yeah, that have expertise. And sometimes there are agencies in other states or national organizations that they might be referred to.

Q. Now when you talk about offering -- when you talk about supervising the contracts and you mentioned sometimes management problems, does that deal with contractees performing the contract pursuant to the RFPs that they've responded to?

A. Pursuant to their contract.

Each agency has an individual contract.

Q. During the time that you have administered the local programs unit, have you ever had to fire a contractor for nonperformance?

A. Once.

Q. So the state will step in and actually terminate a contract if it feels the contractee is not performing in accordance with what the objectives of the RFP are?

A. The objectives.

It's the activities in their contract, yes.

Q. In terms of providing training and technical services, will you actually detail a member of your staff to interface, if you will, with the contractee and provide specialized training to that contractee on special issues, if you're requested to do that?

A. We have at times had technical assistance contractors who have served that purpose.

Q. Can you give me an example of a technical assistance contractor that would provide specialized training or training to a contractee to help them accomplish their training activities or their community activities.

A. We fund the American Lung Association, East Bay, to provide technical assistance to agencies for the implementation of a smoke-free bar law.

Q. So that if I were a competitive grantee and I had passed muster with your unit on the RFP and I wanted to conduct activities that dealt with environmental tobacco smoke and I wanted special training, I could

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come to your unit and request that, and there may be other either private or state agencies that were funded to come in and help train me in order to help institute my ETS activities?

A. Yes.

Q. I asked you earlier about consulting with epidemiologists. In the course of your job duties either as a Grade II or a Grade III have you consulted with experts, scientific experts, other than the epidemiologists that you've talked about?

A. What kind of scientific experts? I'm a little unclear.

Q. Pulmonologists, cardiologists, various medical experts, toxicologists, biochemists, people that

might talk about the molecular interaction of passive smoke in lung tissue.

A. I would say I have not.

Q. When your unit is supervising the competitive grantees, are there -- there are progress reports that are forwarded to you from the competitive grantees, true?

A. Correct.

Q. And the purpose of the progress report is what?

A. For them to report progress made toward completing their contract.

Q. And how frequently do the grantees have to provide you with a progress report?

A. Every six months.

Q. And the normal length, if you would, of a competitive grantee's contract, as administered by your unit, is how long?

A. It varies considerably.

Q. Can you give me an estimate, minimum to maximum? Three months to five years?

A. Oh, you mean the length of the contract?

Q. Yes, ma'am.

A. The term of the contract?

Q. Yes, ma'am.

A. Oh, typically our contracts run three years.

Q. So that you would receive six progress reports over the three-year period?

A. Correct.

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Q. Does the competitive grantee have to submit any other reports in addition to the progress report to you?
A. They submit invoices and fiscal documentation to the section.
Q. Reflecting what they've spent in putting the message on the street, if you will?
A. Um-hum.
Q. What about if you run into a problem with the grantee, in the sense that they're requesting specialized training, are there reports created reflecting that?
A. No.
Q. Is there more or less a telephone conversation?
A. Yes.
Q. And a referral to an agency that can assist them?
A. Correct.
MR. L'ORANGE: Off the record.
(A discussion was held off the record)
MR. L'ORANGE: Q. Now in addition to the reports that you get from your competitive grantees, do your local lead agencies report to you on any sort of a periodic basis?
A. Yes.
Q. And how frequently do they report?

A. Every six months.
Q. Are their -- strike that.
Now I would assume -- and correct me if I'm wrong -- when a competitive grantee reports back to you, that particular report concerns the activities conducted over that six months, the reach of the program, number of people who have been contacted, and some measurement of whether it's been successful or not; would that be a fair characterization?
A. They report on the activities in their contract.
Q. Now are there -- is there a protocol that they have to follow to ensure that they cover in their report what your unit is interested in receiving information on?
A. There are progress report instructions.
Q. Can you give me a general idea of what

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the
information is that's contained in a progress report
from a competitive grantee?
A. We ask about their staffing pattern during
that time period. We ask about subcontracts,
mini-grants, sponsorships that they have provided during
that contract period. We ask about challenges and
barriers that they've encountered during that period.
We ask about coalition meetings that they've
participated in, groups that they've collaborated with,
materials that they've developed, and then they
specifically respond to all the items in their contract,

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their activities, what they have done to date.
Q. And the purpose of the report is to give you
an assessment of the progress they're making in the
activities they agreed to conduct when they responded to
the RFP?
A. That's one purpose.
Q. What are the other purposes?
A. We're assessing for issues that are going on
out in the field that we need to be providing statewide
training and technical assistance on, challenges that we
need to perhaps be addressing, campaigns, specialized
campaigns that we might need to be looking at.
Q. Anything else that you can think of?
A. No.
Q. Now you mentioned that local lead agencies
also respond with a report to you every six months.
A. Correct.
Q. What is contained in those reports?
A. The same information. They have coalitions
that they additionally report on the activities.
Q. What is a coalition, as you're using the
term?
A. It's a group representative of the committee
that's involved in planning, implementation, and
evaluation of the program.
Q. The term "coalition" implies to me that this
person represents an amalgamation, if you will, of
organizations. Would that be correct on my part?

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A. We provide considerable flexibility in how the local level defines their coalition and the membership.

Q. Would that be another way of saying that a coalition could be composed of a single organization or it could be a collection of organizations, it just depends on how they choose to define themselves?

A. No.

Q. What did you mean to imply when you said we give consider flexibility at the local level for coalitions to define themselves?

A. We have coalitions in California that range in size from 1200 people in the county to 9,000,000 people, so the representation, how frequently you meet, the geographical and transportation barriers that you have vary, so there is variability within the coalitions. Some have regional coalitions, some have a more centralized coalition, some have a coalition as part of a much bigger health body.

Q. And the purpose of the coalition is to facilitate getting the activities accomplished by the organizations that may make it up?

A. I think that's one purpose.

Q. When you talk about coalitions, is that the same thing as a regional community linkage project?

A. That's one type of coalition.

Q. Could you give me some examples of other types of coalitions or what's included under the rubric

of coalition?

A. The local lead agencies each have coalitions, the regional linkage projects have coalitions, the ethnic networks have what's called an AC advisory committee that operates as a coalition.

Q. In terms of serving as the chief of the local programs unit, are you the final authority on what activities a local lead agency can undertake or a competitive grantee can undertake?

In other words, does the buck stop with you, in terms of whether or not a particular response to a request for proposal will be approved, or is the approval conducted at another level?

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A. You've kind of asked a lot of questions there.
Q. Sorry. Why don't you tell me how the procedure -- when a competitive grantee submits a response to an RFP, what's the procedure that's undertaken by you in your unit that either leads to approval or disapproval of that particular response?
A. We put an RFP out on the street that tells people how much money we have available, what the terms of the contracts are, and what we're looking to accomplish by what our priorities are.
People submit applications and we conduct a peer review process in which the applications are reviewed by people from the field from other states and other countries, who have expertise in those areas.

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They review and score the proposals and determine the fundable proposals. Then our office takes the group of applications that received passing scores and tries to make the money go as far as possible, and we assign dollar amounts to those contracts. Then contracts are assigned to a health education consultant and a contract manager and they're negotiated.
Q. Is the health education/contract manager a member of your unit?
A. The health education consultant is. There's a contract manager, which is a different position.
Q. And -- but that's not part of the 12 people you supervise?
A. No.
Q. Where does the contract manager come from?
A. In the administrative contract management unit.
Q. Their job is solely to negotiate the contract?
A. No. It's a team effort. My side of the house handles the program end. The contract managers handle the fiscal administrative. There's a lot of issues, in terms of the budget, contract language, packaging the language to go over to contracts management.
Q. I'm going to ask you a lot of questions in

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one again, and let's take the last five years.
In the course of any one fiscal year, can you

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give me an estimate of the number of competitive grant proposals that you receive and review, and of that number, how many are rejected?
A. Yeah, you're asking a lot of questions in one. I mean, how many RFPs we do? I don't...
Q. No.
A. We do multiple RFPs.
Q. In the course of a year, how many RFPs does your unit let?
A. As many as six.
Q. Now is there... Can you tell me if there is an average number of competitive grantee responses to each of those RFPs? In other words, if you are going to let an RFP over the course of a year and you do six and you decide to do one each month, is there an average number of responses that you can anticipate to those RFPs?
A. No.
Q. Can you give me a minimum to a maximum number of responses that are typical to an RFP?
In other words, we always get 35 and sometimes we get up to a hundred?
A. I would say one to 100.
Q. In the course of the evaluation -- the peer review process, are there competitive grantee responses which are excluded because they are deemed to be insufficient, unrealistic -- whatever the reason is?
In other words, is there a weeding out

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process at the peer review level?
A. Yes. Not everybody passes.
Q. Now once those who pass the peer review process are selected, then really the idea is to get the money as far as you can go to those who have been selected, or is there a further weeding out process really driven by fiscal factors?
In other words, you've got X amount of money, Y number of competitive grantees, and only a certain number of them are going to get funded?
MR. MANSFIELD: Do you understand that

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question?
THE WITNESS: No, I don't.
MR. MANSFIELD: Which question do you want her to answer first?
MR. L'ORANGE: All right, let me rephrase it.
Q. Once you clear the peer review process and you've got a certain number of grantees that arguably could be funded -- true?
A. Yes.
Q. All right, now you've then indicated that there's a health education specialist and a contract representative who then sit down and begin to work with these people in trying to negotiate contracts, but one goal in this process is to make your money go as far as you can. In other words, the largest number of grantees to be funded, true?
Is that a fair statement on my part?

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A. We try to fund as many agencies as possible, whether they have sufficient funds to do a credible job.
Q. In the funding process is there yet another weeding out process, in the sense that you've got X amount of funds to distribute and you have a larger number of grantees than you can possibly fund, or is it the case that once you get to the funding process everybody gets some money to execute their program?
A. We don't always have enough money to fund all of the applicants with passing scores.
Q. So some people do not get funded in the process, true?
A. Correct.
Q. Now I would take it -- and correct me if I'm wrong -- that when you get to the fiscal decision, you're really funding programs that you believe will be most effective in the community, true?
A. We are funding those that have the highest score.
Q. Is the highest score reflective of those that the peer review process believes will be the most effective in the community?

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A. That are the most responsive to the RFP.
Q. Would it be one of the goals in the RFP to ensure effectiveness in the community?
And what I'm driving at is this a Darwinian system, in the sense that the folks who ultimately get the money are the ones that, in the judgment of your

unit, are going to do the best job getting the message out?
A. People from the field have selected these projects and compared them to criteria that are based on the RFP. Obviously we're looking to fund effective programs and we've tried to build an RFP and a review instrument that enables the peer reviewers, but it's the peer reviewers who determine who gets a passing score.
The Tobacco Control Section doesn't weigh in on the score.
Q. With respect to the RFPs that are let by your unit, does your unit draft the RFP?
A. Yes.
Q. Can you tell me how that process is conducted?
A. We conduct strategic planning meetings and we determine what our gaps are, what our priorities are. We're looking at how much money we have, we develop some large concepts, we then present those to senior management in the Tobacco Control Section and share what we think would be a way, an approach, for these funds.
There's negotiations with our senior staff.
Then staff sit down in a team to write the RFP and then it goes through multiple layers of review.
Q. What I'd like to do is take you through each of those steps briefly.
With respect to environmental tobacco smoke, which I'll refer to as ETS in the deposition, is it true

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that one of the goals that California has adopted is the reduction of exposure by its residents to ETS?

A. Yes.

Q. Now that became a priority at some point, did it not?

A. It has been a priority since the beginning.

Q. Since 1989, true?

A. Yes.

Q. Now can you take me through the strategic planning process with respect to environmental tobacco smoke? In other words, do you conduct strategic planning sessions to determine what gaps may exist in the field with respect to getting the message out on ETS?

A. Do I personally?

Q. Well, does your unit?

A. No. People in my unit do.

Q. Is there anyone in your unit or are there a group of folks in your unit who are specifically dedicated to dealing with the ETS issue?

A. Yes.

Q. Could you tell me who they are?

A. Paul Hunting.

Q. That's the --

A. He's the lead. He received a promotion in June and so I've had to assign somebody else, but Paul has been the lead.

Q. For how long was he the lead with respect to

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ETS?

A. As long as he has worked here, which I think is about three years.

Q. And who replaced him?

A. Greg Oliva.

Q. Greg Oliva?

A. Um-hum.

Q. "Yes"?

A. Yes.

Q. Was Mr. Hunting assisted by anyone, with respect to dealing with ETS issues?

A. Yes.

Q. Who assisted him?

A. We have a work group that addresses secondhand smoke, and so the members of that work group.

Q. How large is the work group?

A. I don't know the number off the top of my head.

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(Mr. Terry joined the deposition)
MR. L'ORANGE: Q. Is it composed solely of members from your section, or is it composed of people from the other areas of TCS?
A. It has more than the people from our section.
Q. Do you know from whence the other folks come from?
A. I don't have all of the representatives in my head.
Q. I understand.

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A. Okay.
Q. What I'm trying to get is a feel for what other disciplines or what other sections you draw on to form this group that deals with ETS.
A. It's made up of representatives from the tobacco association and the field and the volunteers in the association also.
Q. Would Mr. Hunting be the coordinator?
A. He coordinates the secondhand smoke group.
Q. Have you personally participated in strategic planning sessions that address ETS?
A. I've participated in strategic planning meetings that secondhand smoke was included.
Q. It was not necessarily the dominant topic of discussion?
A. Correct.
Q. Have you ever participated in the creation of an RFP designed to address ETS issues alone?
A. No.
Q. Are the -- and that's actually an area that I'd like to go a little bit further into.
When you draft RFPs, would you draft an RFP designed exclusively to deal with ETS issues?
A. We have not.
Q. In other words, ETS -- would it be a fair statement to say that when an RFP is let because ETS is one of the state's priorities, it is some factor that is considered within the RFP? Strike that.

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That's a lousy question.
Let me rephrase that.
What I'm asking is when you release

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RFPs for
competitive grantees to come in and bid on, is ETS always a subject, because it's one of the state priorities, that that RFP will address?
A. It's not always.
Q. Would it be a fair characterization to say that in the majority of RFPs let by your unit, ETS is a factor to be considered in one way or another by a competitive grantee in submitting its bid?
A. Yes.
Q. By a majority now I'm thinking maybe 60, 70, 75 percent. Would that be a fair assessment on my part?
A. Yes.
Q. Could it be higher?
A. Yes.
MR. L'ORANGE: We've been going for about an hour. Can we take about five minutes, let me get organized with my Post-its here and talk with the gentleman who just arrived, and we'll have some fun with the documents.
(A recess was taken from 10:43 to 11:01 a.m.)
MR. L'ORANGE: Q. Ms. Roeseler, if we could go back and just backtrack on a couple of things that you've told us about.
On the peer review process, could you give me an idea of the panel. You've indicated to me it's

people from the agency and the field, and maybe even people from other countries, but could you describe to me in detail what this panel looks like.
A. It depends on the RFP. It's tailored to the expertise and the priorities of the RFP.
Q. And how big would a peer review panel be, typically?
A. A peer review panel is typically about six people.
Q. Are there specific disciplines that you want to have included on the peer review panel, or does that depend on the nature of the RFP?
A. It depends on the nature of the RFP.
Q. Within this group of six, regardless of type of RFP, are there a standard series of people that you want on the RFP? For instance, an epidemiologist, a

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pulmonologist, or are there stock trades that you always have on the peer review panel?

A. No.

Q. Can you give me some idea as to the types of disciplines that might be on a typical RFP peer review panel?

A. Health educators, social workers, community organizers, sometimes attorneys.

Q. I bet that really speeds the process up.

A. People with expertise in materials development, people from rural communities, urban communities, ethnic communities.

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Q. Will you have medical representatives on there?

A. There have been.

Q. Have there been any peer review panels specific to ETS that you're aware of?

A. Yes.

Q. Can you tell me how many peer review panels specific to ETS you're personally aware of?

A. No, I can't.

Q. Could you give me an estimate?

More than one, less than ten?

A. No. It depends on the RFP.

Q. Do you have any idea as to the total number of RFPs that have been let by your unit?

A. Over ten years?

Q. Yes, ma'am.

A. No, I don't.

Q. Is there any document that you're aware of that sets forth that information?

A. The number of RFPs that have been let in the last ten years?

Q. Yes. Yes, ma'am.

A. No.

Q. Can you -- have you personally participated in a peer review panel, or had a chance to observe them as they perform their work?

A. Yes.

Q. Can you tell me how that process is

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conducted?

A. We assign proposals to reviewers based on their expertise and what the proposal is addressing, so we have priorities that we're looking for in the proposal. There's a cover sheet that might say

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we're
looking for interventions that address secondhand smoke,
access issues, point of sale issues, stuff like that,
and we have solicited reviewers to tell us what their
areas of expertise are, what communities they have
expertise in. We assign proposals to reviewers who have
expertise in those areas. The proposals...
Q. Can I interrupt for a minute? Would it be
fair to say that if you had an RFP that was concerned
with ETS issues, the selection of your peer review panel
would be people within a variety of disciplines who have
experience or expertise in ETS?
A. Yes.
Q. And I didn't mean to interrupt.
Was there anything else you wanted to add?
A. No, that's fine.
Q. You mentioned that the local lead agencies
for the counties -- or the counties provide you with
progress reports. Do you maintain those? I mean is
there a cache of progress reports within TCS somewhere?
A. Yes.
Q. Do you retain every progress report that's
submitted by grantees or local lead agencies?
A. The department has some kind of retention

schedule.
Q. Do you know what that is?
A. No.
Q. Do you know, when a progress report comes in,
what does your unit do -- well, strike that.
Is your unit the recipient of the progress
report submitted either by the local lead agency or the
competitive grantee?
A. We receive a copy.
Q. Is there a section within the TCS that the
progress reports are directed to, albeit you may receive
a copy?
A. Yes.
Q. What is that section?
A. It goes to an individual in the
administrative contract support unit.
Q. Does that individual have a title?

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A. She's an MST.
I don't know what it stands for.
Q. I'm sorry, an MST?
A. MST. I don't know.
That's some kind of state government title.
Q. Do you know her name?
A. Yes.
Q. What is her name?
A. Diane Hightree.
Q. Hightree?
A. Hightree.

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Q. Now do you know what she does when she receives the progress reports?
A. Yes. She marks them to see the date that they were mailed, she enters them into a database about when they were mailed, she then gives a copy to the health education consultant that works with that contract, and she gives a copy to the contract manager who works with that agency.
Q. And these are the people you described for us earlier. The health education consultant is with your group and the contracts person is with the contracts group?
A. Um-hum.
Q. Now does Ms. Hightree perform any type of analysis on these progress reports?
A. No.
Q. Does anyone perform any form of analysis of the progress reports?
A. Yes.
Q. Who is that?
A. The health education consultant and the Contract Manager II.
Q. Now what is the type of analysis conducted by each of these entities, if you know?
A. The contract manager checks the staffing form to see that the staffing is consistent with the approved budget. The contract manager also looks at the subcontracting form, consulting form, to make sure that

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that's consistent with the approved budget, then the health education consultant reviews the progress report for progress made towards completing the contract.
Q. Do the progress reports contain any

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information about the number of people reached through the program administered by the competitive grantee?

A. They would relate back to their specific contract, whatever was in their contract.

Q. I'm with you up to a certain point, and then I'm not tracking with you. When you say they would relate back to their contract...?

A. If their contract says, "I will provide training for a hundred people," then we would expect them to say whether they provide training for a hundred people.

Q. Is there a verification mechanism in place to determine, if someone tells you they provided training to a hundred people, that in fact they did, they turned in sign-in sheets, or you have people who go out and do spot checks?

A. Yes.

Q. So does the department have kind of an inspector general that goes out and checks this?

A. We have an audits office who can go out and inspect that.

Q. Besides the audits office, is there any other independent verification mechanism that -- either your unit or another unit in TCS -- makes sure that when a

unit reports, that in fact is the reach?

A. Yes.

Q. What is that?

A. Their contract states what tracking measures they will use to verify the completion of the activity, so it may be a sign-in sheet, it may be an agenda, and that becomes part of the progress report.

Some of those items are kept on file in the agency's office. If we do a site visit, we can go look at that. Their contract requires them to keep the documents for -- I think it's three years.

Q. And your health education consultant reviews the progress report and makes an assessment as to whether the competitive grantee is complying with the conditions of the contract?

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A. Yes.
Q. Now does that same type of analysis also hold true for the local lead agencies when they submit the progress reports back to the Tobacco Control Section?
A. Yes.
Q. Their progress reports go to Ms. Hightree as well?
A. Yes.
Q. She does the same activities you've described earlier with respect to those reports?
A. Yes.
Q. Then do you have a contract person and a health education specialist reviewing the progress

reports in the local lead agencies?
A. Yes.
Q. Is there any form... You indicated there was -- strike that. You indicated there's entries that went into a database by Ms. Hightree, but does the... does the Tobacco Control Section maintain any form of database where you track the progress of your local lead agencies or your competitive grantees?
In other words, if you had to render a report to the legislature, do you have a database that you could go back to and pull this data out and then report to the legislature the frequency, the reach, the total population?
A. No.
Q. The portion of the Proposition 99 program that you administer is essentially done through...
Let me go back and rephrase that.
My understanding of the Prop 99 program is that a certain portion of funds are dedicated to health education, which is performed basically by your unit through the Department of Health Services.
Is that a fair assessment on my part?
A. Yes.
Q. Now when you talk about local lead agencies, you're talking about the Department of Health Services' counterpart to you in each of the 58 counties and the

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three cities in California, is that true?
A. Yes.

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Q. So if we were to chart this out, you would be at the top of the chart, and then there would be an arm of funding and administration that essentially ran through the department of each health service's representatives in each county and in each of the three cities in California?
A. Yes.
Q. And the funding you receive is administered completely through the arm that I've just described?
A. Completely, is that the question?
Q. Yes.
A. No.
Q. I'm sorry, I'm sorry. I see the confusion.
The funding that your section receives, that you administer --
A. The TCS section?
Q. Yes.
A. Okay.
Q. -- is administered through this chain, the county representatives, the city representatives, and their interaction with the competitive grantees.
A. No.
Q. Let me get at it this way:
There is a separate analog through the Department of Education that also receives funding to conduct programs in schools through Prop 99, true?
A. The Department of Education receives funding.
Q. And the rest of my question was correct, they

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conduct tobacco activities in the schools with this funding?
A. Yeah. Yes.
Q. Do you coordinate with any representatives within the California Department of Education, in terms of the messages that you are delivering through this administrative and funding arm that you oversee through the Department of Health Services, with the messages and funding they're going to deliver through the educational arm?

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A. Somewhat.
Q. Can you tell me the nature of that coordination; what do you seek to accomplish, how is it performed?
A. There are joint meetings between staff in the Tobacco Control Section and staff in the Department of Education that happen probably every other month.
Q. So about six a year?
A. Yes.
Q. Can you tell me generally what goes on in these meetings?
A. People are sharing their RFPs that are coming out; campaigns, media, evaluation efforts.
Q. Through these meetings have you gained an understanding as to how the Department of Education handles the funding in the types of projects that they seek to accomplish in the schools?
A. I have some understanding.

Q. Can you tell me what your understanding is as to how the Department of Education administers the allocation of the funds it receives under Prop 99?
A. They fund grades four through eighth, with an allocation basis based on average daily attendance, and they have competitive grant program for high schools.
They also provide some funding to county offices of education.
Q. Do you have any understanding as to whether the Department of Education has any programs designed to reach children who are either preschool age or between kindergarten and whatever iteration it takes up through the third grade?
A. Currently?
Q. Um-hum.
A. No.
Q. How about formerly?
A. Previously?
Q. Yes.
A. Yes. The legislation changed.
Q. When did the legislation change?
A. I don't recall.
Q. And what was the change in the legislation?
A. The legislation that changed made it four

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through eighth. I don't recall previously, but it clearly said four through eighth.

Q. Do you have any understanding as to why those particular grades were selected?

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A. No.

Q. Do your programs, through the competitive grantees, make any attempt to reach preschool age children or children in the bracket between kindergarten and the third grade?

A. Can you restate the question?

MR. L'ORANGE: Would you read it back, please.

(The record was read by the reporter)

THE WITNESS: Some projects do that.

MR. L'ORANGE: Q. Do you have any estimate as to the number of projects designed to reach that population?

A. No.

Q. Do you have any estimate for me as to the length of time those projects have been in existence?

A. Over the years there have been projects that have addressed that population.

Q. Would that be a statewide effort promulgated by your section, or are those projects a function of the particular local lead agencies in a particular county?

That's a bad question. Strike it.

What I'm asking is did your section, at certain points over the last ten years, decide you were going to undertake programs administered in the cities and the counties designed to reach the preschool age up to the third grade population, or is that a function of the RFPs that are submitted either through the local

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lead agency or the competitive grantee process?

A. I would say it's a function of the RFPs and how people respond to the RFPs.

Q. Let me just get some clarification on that.

Have there been RFPs, to your knowledge, designed to create programs to reach the preschool age, up to third grade population, administered through

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TCS?
A. No.
Q. So that the programs that have been created have been created in response to RFPs which necessarily didn't call to reach that population, but because of the response from the competitive grantee that population got swept into the people who would be targeted; is that a fair characterization?
A. Yes.
Q. When you and I first started the deposition you indicated to me that ETS has been, if you will, a priority for the state since the inception of the Proposition 99 program in 1989. Is that a fair statement on my part of your previous testimony?
A. Yes.
Q. Now was there a point in time when the State of California essentially ratcheted up the emphasis on ETS as a priority in the Tobacco Control Program, over and above what it had initially targeted in 1989 at the inception of the program?
A. Ratcheted up?
I don't know what you mean by that.

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Q. That's a technical term when you're changing tires. Increased its focus, indicated to your unit that, we want increased emphasis through the competitive grantees, the local lead agencies, the programs that you administer on ETS?
A. I believe that there was more emphasis placed on that due to things happening in the environment.
Q. Can you tell me approximately when that change took place, by way of year?
A. I think it happened several times. It happened in '91, it happened in '92, it happened in '93, it happened in '94, it happened in '98.
Q. You indicated that there were changes in the environment. Could you describe for me what you're talking about that would bring these increased emphases on ETS during the years that you've enumerated for us?
A. In the early '90s there was a lot of

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emphasis
placed on local communities protecting the public and
workers from exposure to secondhand smoke, so there were
local policy activities going on. In '93 we saw
statewide legislation introduced, and in '94 that was
passed and we saw Proposition 188.
Q. May I stop you there just for a minute? In
'93 what statewide legislation are you referring to?
A. AB 13.
Q. And in '94 you saw?
A. The statewide legislation went into effect.
Q. And that was a proposition you were about to

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mention.
A. Proposition 188.
Q. And the purpose of 188 was?
A. To prevent the statewide smoke-free workplace
legislation from going into effect.
Q. What happened in '98?
A. Smoke-free bars.
Q. Now when you spoke about the earlier years in
the local community programs with an emphasis on workers
and smoke-free workplaces, was there any emphasis on
smoke-free homes or an effort to get a message out on
smoke-free homes?
A. There were messages directed at not smoking
in the home also.
Q. Would it be fair to say that messages
regarding not smoking in the home or in cars have been
part of the messages delivered by your unit during the
entirety of the program from 1989 to the present?
A. They probably included. The emphasis has
probably changed over the years.
Q. How has that emphasis changed?
A. I think as we protected workers and the
public in public places from secondhand smoke, that
people then began looking at other places that needed
protection, that people needed protection.
Q. Home and cars, would that be fair?
A. Yes.
Q. And would it also be fair to say that in

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later years, say from '94 - '95 on, there has been an increased emphasis on delivering messages about smoke-free cars and homes because of the passage of AB 13 and the elimination of secondhand smoke in the workplace?

A. No.

Q. Could you tell me what's wrong with my characterization?

A. Well, in '98 smoke-free bars happened, and I think there was a huge emphasis on smoke-free bars that took up our time.

Q. What about the period '94 to '98, was there an increased emphasis on smoke-free homes and smoke-free cars?

A. I don't know.

Q. How about from '98 to present, after the elimination of smoke in bars, has there been an increased emphasis on the elimination of smoke in the home or in automobiles?

A. Yes.

Q. Has that been a function of the media and the public relations activities conducted by your unit or its grantees?

A. Well, I don't oversee the public relations and media activities. We have certainly put it into the RFPs that we put out on the street.

Q. Are there RFPs that specifically address the elimination of smoke in the home or in automobiles?

A. They bring that subject matter up, yes.

Q. And the competitive grantee is asked to devise some mechanism to respond to that portion of the RFP?

A. It's an option for them to respond to.

MR. L'ORANGE: Since you have not done this before, I'm going to hand you some documents and question you on them. If you could mark this as next in order, please.

I'll give you specific references in the document. There will be some points in time when I will ask you to take a moment and read it to make sure you

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understand it before we go into it.
So if you could mark that next in order.
(Defendants' Exhibit 116 was marked for identification)
MR. L'ORANGE: Let's go off the record for a minute.
(A discussion was held off the record)
MR. L'ORANGE: The record should reflect that there is an agreement among all counsel that rather than submitting the entire document and marking it for the record, we can mark an abbreviated portion of the document that consists of the pages that we are going to examine on.
The record should also reflect that we do have a copy of the entire document unmarked in front of the witness and the witness, should she want to refer to

the document for any reason, is certainly encouraged to do so. At the time of trial we will substitute a complete copy of the document for the Court at the trial, in place of the abbreviated version. The reason we are submitting the abbreviated version is to cut down on the amount of copying that's going to have to be done for all the depositions that we're taking.
Is this an agreeable stipulation with everybody? Yes?
MR. MANSFIELD: So you're going to use the abbreviated version for the depo and the full version for trial?
MR. L'ORANGE: Yes, sir. And inclusive with the abbreviated portion will be the last page by Bates number so that we can confirm first and last pages of the abbreviated version span on all of the documents that are being questioned on.
Q. Ms. Roeseler, if I could ask you for a moment to take a look at the unmarked document, just to satisfy yourself that you've had a chance to see --
A. This one?
Q. Yes. -- the full document.

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There are just a few... Okay?
Now my first question is have you seen this
document, Exhibit 116, before?
A. Yes.
Q. And you recognize it as the California --
MR. MANSFIELD: Before we go on, when you say

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"116," are you referring to the abbreviated or the full?
MR. L'ORANGE: I'm actually referring to both
the abbreviated -- let me rephrase the question.
Q. Have you seen the California Tobacco Education Project Directory, the unmarked copy that we
have in front of you, and the excerpts marked 116, before?
MR. MANSFIELD: Do you understand the question?
THE WITNESS: Well, I've seen this.
I haven't seen this before today.
MR. L'ORANGE: Q. "This" being the unmarked
copy, and 116 are portions of the unmarked copy that
we've extracted out of the document to question you on,
so let me start out, you've seen the unmarked copy of
the California Tobacco Education Project Directory in
the past?
A. Yes.
Q. Is this compiled by your unit or someone else
within TCS?
A. Both.
Q. What role does your unit play in the compiling of the project directory?
A. We contract with ETR Associates to produce
this document for us.
Q. "This" being the unmarked version?
A. Yes.
Q. So ETR, pursuant to a contract with you,

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creates the Tobacco Education Project Directory?
A. Yes.
Q. Now what is the purpose of this document?
A. For networking purposes between the contractors.
Q. Does each contractor get a copy of the document?
A. Yes.
Q. Now when you talk about networking, so that a

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contractor receives necessary information on another contractor, to the extent that they want to talk to them about the program that they're administering?

A. Yes.

Q. Now let me offer an explanation.

If you look at each page of Exhibit 116 you will see a number stamped at the bottom. "DHS" refers to the fact that it comes from the files of the Department of Health Services, and the number itself is what we call a Bates number, and I'll refer to the pages that I'd like you to review by that Bates number.

If I could draw your attention to page number 0155 by Bates number, and ask you to just take a moment and look at that. If I could draw your attention to the third paragraph down.

Now Exhibit 116 is making reference to the time period 1997 - 1998, and the first portion of the third paragraph makes reference to over 400 community agency programs funded over the past few years by

CDHS/TCS. Is this the cumulative number of competitive grantees that had been funded up through the 1997 - 1998 time frame? Is that an accurate statement on my part?

A. It would be a cumulative.

Q. When you make reference in that third paragraph to the 61 city and county health departments, those are the Department of Health Services' representatives in each of the 61 counties and three cities in California, is that true?

A. They're not representatives, they're contractors.

Q. Are they local lead agencies?

A. Yes.

Q. Is it the same local lead agency in each county?

A. I don't know what you mean.

Q. For each of the cities and in each of the 58 counties, do you use the same local lead agency?

We're not connecting, are we?

A. No. Same local lead agency? I don't get it.

Q. Well, all right.

What are the 61 city and county health

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departments that are involved in the Department of Health Services Tobacco Control Section's program?
A. The local lead agencies are designated in legislation. A few of them contract the services out.
Q. What do you mean by that?
A. They hire somebody else to run the program.

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Q. I understand.
So that on a county level I might have, for instance, the Santa Barbara Department of Health Services functioning as the local lead agency, or the county health department has the option of contracting with another company or operation to fulfill the obligations as the local lead agency to administer the program?
A. Yes.
Q. So that when you refer to 61 city or county health departments, it's either the health departments for those entities or the company or operation with whom they have subcontracted to administer the program?
A. Yes.
Q. Now the third paragraph makes reference to four ethnic networks.
Can you tell me what they are, please.
A. There's an ethnic network for the African American population, the Asian/Pacific Islander population, American-Indian, and Hispanic-Latino population.
Q. Do you have any personal understanding as to why those particular ethnicities were selected, as opposed to others in the state?
A. Yes.
Q. What is that?
A. They represented the major ethnic racial groups in California.

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Q. Now for the ethnicities that have not been selected, are there programs designed to reach those particular ethnic groups?
A. You would have to tell me the name of a group and I would be able to respond properly.
Q. If I were from Pakistan, is there anything out there that reaches Pakistani immigrants to the

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United States in California?
A. We would consider them to be under the Asian group, so they could be serviced through agencies in the Asian/Pacific Islander.
Q. Now if I go a little more west and I'm a refugee from Kosovo, are there agencies designed to reach me from Kosovo, or do I fall within the four ethnic groups?
A. Kosovo would not fall within the four ethnic networks.
Q. Is there anything that reaches them, or is that a function of competitive grantees?
A. We're in the middle of a procurement that was soliciting projects to address Eastern European immigrants. So I would say currently we do not.
But we may in the future.
Q. Do you have any estimate of... Let me rephrase the question. Is there an estimate as to the proportion of California's current population that comprises minorities cumulatively? In other words, is it 20 percent of the state minority? 30 percent?

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40 percent?
A. I believe that exists, yes.
Q. Do you know what that is?
A. Not off the top of my head, no.
Q. Do you have any estimate as to the percentage of the total minority population that your ethnic networks reach?
A. No.
Q. Would it be fair for me to say that the ethnicities that were selected...
Let me rephrase the question.
Would it be fair to say that the four ethnicities selected were done so because they comprised the majority of the minority population in California?
A. I think the answer to that is yes, but.
The API population is very broad.
Q. I'm sorry?
A. The API, the Asian/Pacific Islander population.
Q. "Broad" meaning expansive?
A. There's a whole bunch of populations represented within that.
As a group, as a whole, I think that...
Q. I think we're saying the same thing but we're on two different wavelengths. It's my understanding that in the Asian/Pacific Islander population

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there can
be as many as seven subsets of populations being
reached, i.e., Thais, Vietnamese, Japanese,
Korean.

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They're broken out by nationality. Is
that a
fair or correct understanding on my part?
A. There's more than seven.
Q. My question is really addressing the
minority
population in California, were these four classes
of
minorities selected because it enabled you to
reach the
majority of the minority populations because you
had
subsets of populations falling under the rubric,
for
instance, of Asian/Pacific Islanders?
In other words, you're trying to reach
the
maximum number of minorities, based upon the
selection
of the population you chose to target in your
program?
A. We were trying to reach the largest
numbers
of minority populations.
Q. Now you also speak about 11 regional
community linkage programs in the third paragraph.
What
are these regional community linkage programs?
A. They're funded out of the competitive
grants.
They encompass multiple health
jurisdictions,
and they're designated in legislation.
Q. What is their function?
What are they designed to accomplish?
A. To link community and media.
Q. What do you mean by that?
A. Media goes over traditional county/city
jurisdictions, and it's important to have
community
programs that are in sync with media.
So these groups are charged with trying
to

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make that connection that you don't have messages,
media
messages, that aren't appropriate to the
communities
that they're occurring in.
Q. Now is there some formula or protocol
that is
utilized to select or create these regional
community
linkage programs? Is it done geographically? Is
it
done demographically? Is it done culturally?

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Is there some formula that you utilized?
A. There was not a formula.
Q. Can you give me an example of a regional community linkage program?
A. The Gold Country region.
Q. So the counties that comprise the Gold Country have this regional linkage program?
A. There's an agency funded to be the administrative agency that works with the counties, the multi-county area in the Gold Country.
Q. And that's to basically make sure that the community programs are in sync with the media, and vice versa?
A. Um-hum, um-hum.
Q. "Yes"?
A. Yes, I'm sorry. Yes.
Q. If I could ask you for a moment to turn to what's been designated Bates 156. It's the next page.
You'll see that this is an analysis of the Tobacco Control Section. You've described for us your unit, the local programs unit.

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What is your understanding of what the data analysis and evaluation unit does?
A. They conduct, through contracts primarily, surveillance and evaluation activities.
Q. Do they operate like the EPA SEER program?
A. I don't know what that is.
Q. When you say surveillance and evaluation, what exactly are you describing or referencing?
A. Surveillance are generally telephone surveys where you're assessing smoking prevalence, attitudes, behaviors.
Q. And evaluations, they evaluate the results of the telephone survey?
A. There's more complex evaluations that go on also.
Q. Is this data then subsequently reported back to your unit, the local programs unit?
A. Yes.
Q. Do you use it as a measure of how effective the measure is that your competitive grantees and local

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lead agencies are trying to get out?
A. Yes.
Q. Are these evaluations retained by your unit or are they subject to the retention policy that you described for me earlier?
A. I would say both.
Q. In other words, they're retained if they're not subject to the retention policy?

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A. There are reports that come out. They're usually little reports that some of us keep around forever.
Q. Is there a formal retention of these reports by the data analysis and evaluation unit or anyone else within TCS?
A. I don't know.
Q. Can you tell me what program support does.
A. It's general clerical.
Q. Word processing, that sort of thing?
A. Yes.
Q. With respect to the evaluations and analysis performed by the data analysis and evaluation --
A. Oh, I'm sorry, program support.
Q. Yes, ma'am.
A. Oh, I'm sorry. That is not clerical. I'm sorry, that is not.
Q. What is program support?
A. This position is lead, in terms of working with the ethnic networks, and oversees special projects.
Q. When you say lead in working with the ethnic networks, what do you mean?
A. They're the primary contact.
Q. So that if an ethnic network has some concern or needs some information, it goes to program support?
A. No. Collectively this person is a liaison to the four ethnic networks, although each ethnic network contract is assigned to an individual health education

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consultant.
Q. Can you give me a general idea of the type of support or special projects that program support would provide to the ethnic networks?
A. Participating in joint ethnic network

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teleconferences and meetings.
Q. Anything else?
A. No.
Q. Do they supervise the ethnic networks in any way?
A. No.
Q. Are you aware of any ETS-related studies performed by data analysis and evaluation of ETS?
A. Could you be more specific about what ETS, what...
Q. Sure. Telephone surveys to determine whether or not the recipients of the phone calls are aware of the dangers posed by environmental tobacco smoke.
A. Yes, those are part of the surveillance activities that they perform.
Q. Is ETS always a part of the surveillance activity, or do you conduct specific projects oriented towards ETS?
A. That's kind of two different questions. Do we always... Would you repeat the...
Q. Sure. When you conduct your -- a normal or typical telephone survey -- let me go back and rephrase the question. When you have telephone surveys conducted

by the data analysis and evaluation unit, are you trying to measure public awareness as to antismoking issues?
A. That's a question that's typically included on those type of surveys.
Q. Now in the course of measuring the awareness, public awareness of antismoking issues, is there a question customarily included -- or a series of questions that include ETS?
A. Yes.
Q. Would that be because it's one of the priorities of the state?
A. Yes.
Q. Now contrast that with are there any specific telephone surveys or methods of evaluation conducted by this unit where you are concentrating solely on ETS as an issue?
A. Yes.
Q. Do you have any personal knowledge as to what the results of those surveys have been where they

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have
concentrated solely on ETS?
A. I can recall in general.
Q. Could you give me your general recollection
as to what the results were?
A. There was a telephone survey regarding
people's support of the smoke-free bars, and the public
was highly supportive of that.
Q. Is there something called the CATS, C-A-T-S?
A. Yes.

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Q. What does that moniker stand for?
It's not a moniker. An acronym.
A. California Tobacco Survey.
Q. Are these the people performing the data
analysis or data analysis and evaluation?
A. CATS people?
Q. Yes.
A. They do a portion of this.
Q. Are they a subcontractor to data analysis?
A. Yeah, I don't feel qualified really to talk
about their contract.
Q. Fair enough.
Now with respect to the administrative and
contract media campaign unit, there's a designation for
a support unit. Can you tell me generally what the
support unit does?
A. The way this reads is administrative and
contract support unit. It's squished together, and then
the media campaign unit is off to the side.
Q. Is the administrative and contract support
unit the people you were talking about earlier who
negotiate the contracts and then monitor the
performance?
A. It includes them, yes.
Q. And then the media campaign unit addresses
media?
A. Correct.
Q. What does the program planning/policy

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development unit do?
A. It stays on top of overall policy issues that
affect the section.
Q. Is Mr. Lloyd still the head of program
planning policy development today?
A. No.
Q. Who is the -- is there a new head to

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it?
A. The position is vacant.
Q. Now at the time Mr. Lloyd filled it, was -- when you say stay on top of these issues, what exactly would he do?
A. He would write issue memos for the department on policy issues, he would review bill analyses that were prepared by various staff in the department.
Q. I'm sorry, bill analyses?
A. Um-hum.
Q. Legislation?
A. Yes.
Q. During the time he filled this position, is Mr. Lloyd essentially suggesting to the unit, from a policy standpoint, where it ought to go, in terms of the issues that it addresses, or am I being too bold in my statement about his job function?
A. You're too bold in your statement.
Q. Let me tone it back a little bit. What type of policy recommendations would he make?
A. He would do analyses of policy issues, like the master settlement agreement.

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Q. Okay, I understand. All right, if I may, let me draw your attention to page 163, or Bates number 163.
There is reference in the middle of the page to an organization called PARTNERS. Do you see that?
A. Yes.
Q. Does the PARTNERS organization still exist today?
A. Yes.
Q. In other words, does the system still exist?
A. Yes.
Q. What is the purpose of the PARTNERS system?
May I call it the PARTNERS system?
Would that be a correct...
A. Yes.
Q. What is the purpose of the PARTNERS system?
A. For our contractors to network.
Q. It's an on-line system?
A. Yes.
Q. It enables them to e-mail back and forth?
A. Yes.

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Q. And they can transmit documents, proposals back and forth?
A. I'm not sure that they can transmit documents.
Q. If you would look at the second full paragraph under the title Current Project Activities, do you agree that the paragraph, as it's set forth, is an accurate representation of what PARTNERS is designed to

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produce?
A. Yes.
Q. And to your knowledge and your experience, it is used along the lines as set out in the paragraph we've just referenced?
A. There's considerable variability.
Q. What do you mean by that?
A. We have over a hundred contractors. Some use it, some don't.
Q. For the ones that use it, do they use it for the purposes articulated in the paragraph?
A. Yes.
Q. If I could draw your attention to Bates number 166, please. In the course of overseeing your unit, do you have any occasion to deal with Asher/Gould now? Asher Partners, the media contractor?
A. Yes.
Q. What is the nature of your interface or your dealings with the Asher people?
A. There are periodic meetings with them to discuss advertising.
Q. Is the purpose -- strike that. Is one of the purposes of these meetings to coordinate the activities overseen by your unit with the media that's going to be produced by Asher?
A. Yes.
Q. Are there any other purposes for the meetings, other than what I've described?

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A. Yes.
Q. What are they?
A. Message development.
Q. And by "message development" you mean what?
A. Framing issues.
MR. L'ORANGE: Why don't we go off the record for a minute.
(A discussion was held off the record)

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(A lunch recess was taken from 11:58 a.m. to 12:51 p.m.)

(In the absence of Ms. Sheridan and Ms. Martin)

MR. L'ORANGE: Q. Ms. Roeseler, when we broke we were talking briefly about your contacts with Asher.

At the meetings that you described for us, are the public relations people from Rogers & Associates sometimes present?

A. Sometimes they are.

Q. And I believe we established that one of purposes of the meeting was to coordinate media activities, the programs being overseen by your unit, and presumably those programs being administered by Rogers & Associates?

A. Yes.

Q. If I could ask you, please, to take a look at the document that's been marked 116, specifically Bates pages 331 through 334. Let me represent to you that this is a portion of the index of the unmarked full document that is in front of you, but do you recognize

the contractors that are set out on these inclusive Bates pages as essentially those contractors that deal in ETS issues? And if you look at the bottom of 331, in bold print, the last -- just above the last entry, you'll note "Environmental Tobacco Smoke (ETS)" begins with the African American Tobacco Education Network.

Do you see that?

A. Yes.

Q. And then it continues through to page 334, concluding with the Yuba County Health Services Department.

A. Yes.

Q. Would it be your understanding that all of the entities set forth on these documents are conducting programs that in some form relate to environmental tobacco smoke?

MR. MANSFIELD: Currently?

MR. L'ORANGE: Well, in the '97 - '98 time

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frame.
THE WITNESS: Yes, during that time period.
MR. L'ORANGE: Q. Now do you have an understanding as to whether this listing has changed appreciably over the last three years, in terms of numbers of contractors undertaking ETS activity?
A. I don't know.
Q. In terms of the listings on 331 through 334, these entities are administering programs, some portion of which relate to ETS.

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Would that be a fair statement on my part?
A. A few of them probably focus entirely on secondhand smoke.
MR. L'ORANGE: If I could ask you, please...
Madam Reporter, if I could get you to mark this next in order.
(Defendants' Exhibit 117 was marked for identification)
MR. L'ORANGE: Q. Ms. Roeseler, if I could ask you to look for a moment -- I'm going to hand you an unmarked copy of Exhibit 117 and represent to you that it is the entire document.
What has been marked as Exhibit 117 is the abbreviated portion that I'd like to question you about.
First of all, I'll ask you to look at the unmarked copy.
Do you recognize that as the 1998 - 1999 edition of the California Tobacco Education Project Directory?
A. Yes.
Q. If I could ask you to take the abbreviated version which has been marked as Exhibit 117 and turn to Bates No. 0896 for a brief moment.
In terms of the organization of the Tobacco Control Section, other than changes in the personnel staff between 1997 and 1998 and 1998 and 1999, was there any change structurally?
A. No.
Q. Now can I ask you, if you would, please, to take a look at the pages that begin with 1063 and

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continue through to 1076. Now let me represent to you that this is the index that was extracted out of the 1998 - 1999 version of the... of the document.

Now if you would look specifically at pages 1063 through 1072, it's entitled Priority Areas Index.

Now do you recognize what's depicted in these pages?

A. Yes.

Q. Would you explain it to us, in terms of what it is?

A. The Tobacco Control Section has three primary priorities. They're countering pro tobacco influences, reducing youth access to tobacco, and environmental tobacco smoke. The contractors fill out a survey form and they self-identify which priority areas that their programs are addressing, and that's how the index is built.

Q. So that if we were to turn to page 1068 and look through the contractors that are listed through 1071, they would be those contractors who have identified themselves as primarily involved in environmental tobacco smoke activities?

A. Not necessarily primarily, but that they are addressing environmental tobacco smoke.

Q. Do you have an understanding as to whether the previous exhibit, 116, and this exhibit, 117, have captured all of the contractors who were dealing with ETS, or would there be other contractors not listed on either document who were dealing with ETS, to your

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knowledge?

A. There are other contractors who are not captured in this document.

MR. GROSS: Excuse me. Are not?

THE WITNESS: Are not.

MR. L'ORANGE: Q. Is there a reason why they are not?

A. Their contracts started July 1st, 1999 and we did not send out the project directory survey to them.

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Q. Is it a fair statement, then, that the only contractors not captured in Exhibit 117, which is the one presently in front of you, are those contractors whose contracts started after preparation of this document began? In other words, their contracts do not begin until July of '99?
A. Correct.
Q. Now with respect to Exhibit 116, do you have any reason to believe there are any other contractors dealing with ETS that are not depicted in the list that I showed you earlier?
A. No.
Q. Do you have any understanding as to what is or was the Tobacco Education Oversight Committee?
A. Yes.
Q. Does it still exist?
A. Yes.
Q. Is it by another name, the Tobacco Education Research Oversight Committee?

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A. Yes.
Q. For how many years did the Tobacco Education Oversight Committee exist?
A. In that name?
Q. Yes, ma'am.
A. I don't recall.
There was legislation that changed it.
Q. Now did the legislation change essentially the committee's area of focus, or was it really more of a name change?
A. I think the legislation included the research piece in the oversight, is what it did.
Q. Do you have a personal understanding as to why research was included with the Tobacco Education Oversight Committee?
A. Yes.
Q. And what's the rationale behind that?
A. Because Prop 99 designates a portion of the funding to the University of California for research.
Q. Because we're not involved in the administration of the program, there are a number of... of designations that I've run across that I... if you could define them for me, I'd appreciate it.

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The Tobacco Control Program is the program administered by DHS in the office that we're presently located, right?

A. Yes.

Q. What is the Tobacco Education Program?

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A. It refers to the Department of Education, I think.

Q. So that earlier this morning we were talking about administration down two different lines of authority, and the Tobacco Education Program is at least, you believe, to be a program administered by the Department of Education and the alternative arm in the state?

A. Right. I have to admit we've been loosey-goosey with some of these terms, and fought over what we would call ourselves, so there may not be consistency in documents throughout the years.

Q. Could you tell me what the Community Health Education and Risk Reduction Program is, or is that a term familiar to you?

A. Well, I believe it's a program that was previously run out of another branch in this department.

Q. Did it deal in any way with tobacco education or tobacco control, to your knowledge?

A. I didn't... I don't know.

Q. The Tobacco Prevention Program, what is that?

A. I don't know.

Q. How about the Tobacco Use Prevention Program?

A. I don't know.

(Defendants' Exhibit 118 was marked for identification)

MR. L'ORANGE: Q. Ms. Roeseler, what I'm going to hand over to you is an unmarked copy of a

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document entitled Toward a Tobacco-Free California: Exploring a New Frontier, 1993 to 1995.

I'll ask you to take a moment and look at it.

I will also hand you Defendants' 118, which is the abbreviated version of the document, and from which I want to ask you some questions. You may

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want to
just take a moment to satisfy yourself that you've got
the entire document in its unmarked condition.
And while you're doing that, do you have any
personal understanding with respect to the research
component of Proposition 99, the funding in that
component, which UC school performs the research?
A. UC California puts out -- it's the Office of
the President -- puts out requests for funding, so a
number of universities might be funded throughout
California.
Q. They are California schools, though, only?
A. Yes.
Q. Now drawing your attention to Exhibit 118 in
both its marked and unmarked version, with respect to
the unmarked entire report, have you ever seen this
report before?
A. Yes.
Q. Does your unit play any role in the creation
of exhibit -- of the unmarked copy of 118, "Toward a
Tobacco-Free California"?
A. Yes.
Q. What was the role?

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A. This particular document... I can talk in
general terms. I can't speak...
Q. That's fine. That's fine.
A. Our office staffs TEROC, so TEROC prepares or
T-E-O-C prepares this report, so we staff it.
Q. If I can interrupt you just for a minute so
the record is clear for the judge.
The TEROC or the Tobacco Education Oversight
Committee calls for the preparation of the report.
Your folks staff that function?
A. We staff the subcommittee that works on it.
Occasionally we have also hired a writer for them.
Q. Do you assemble the data for them?
A. We provide them information at their request,
yes.
Q. Then what I'd like to do, if I may, is draw
your attention to some statements in the report.
If I could ask you, please, to turn to what
has been designated 0517. There's a series of

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bullet
points on this page, but if you would look at the left-hand column at the bottom, the last bullet point makes the following statement, quote, "Beyond regular classroom teaching which has reached over two-thirds of California school children, over one-half of all students in California (more than 2.5 million) have also participated in anti-tobacco assemblies and community programs," close quote.

It goes on to describe what those are.

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Do you have any knowledge as to whether your staffing subcommittee provided that information?

A. No.

Q. Do you have any reason to disagree with the assessment set out in this paragraph that over two-thirds of California children have been reached by classroom teaching regarding anti-tobacco messages and one-half of all students have participated in some form of an anti-tobacco assembly?

A. No.

Q. Are those numbers that you are familiar with in any way as to the reach of programs as it was in roughly 1993 through 1995? And that's a clumsy way of asking you, really, looking at that paragraph and given your knowledge in 1993 to 1995, does it appear to be an accurate recitation of the percentages of children reached with anti-tobacco messages?

A. I think it reflects, yeah.

Q. Certainly if it were an inaccurate statement one wouldn't expect to find it in a document being submitted?

A. Right, right.

Q. Now let me draw your attention to the top of the right-hand series of bullet points.

The first one reads, quote, "Over one-half (51 percent) of all public schools in California have declared themselves to be tobacco-free," close quote.

Do you have a personal understanding as to

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what it means when a public school declares itself to be tobacco free?

A. The Department of Education -- first of all, legislation requires that all schools be tobacco free.

Q. That's Prop 99, is it not?

A. No, it's other legislation requires them, if they're going to accept the Prop 99 money, that they have to be a tobacco-free campus, and it includes the campus 24 hours a day. So sporting events, bingo, all of that that occurs on a campus has to be tobacco free.

The Department of Education does some kind of site visits where they're checking whether people really are doing this or not, to -- it's fairly extensive, what they have to do.

Q. Again, because we're not that familiar with the program, when a campus is tobacco free, does that essentially mean there is no use of tobacco products tolerated on the campus by anyone or at any event sponsored by the school, would that be a fair characterization?

A. Well, "tolerated" is an interesting word.

Q. Let me strike that. Permitted.

A. They have policies that prohibit.

Q. So when you say you're tobacco free, you're tobacco free?

A. They have a policy that says that they are tobacco free and that they have met certain criteria set out by the Department of Education.

Q. Now when your unit is drafting RFPs, have you addressed the issue of tobacco-free public education facilities, or is that something that the Department of Education addresses?

A. Yes, we have addressed it.

Q. So you've had RFPs specifically designed to address...

A. No.

Q. How do you address it?

A. There's data that indicates that students

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continue to observe seeing smoking on campus and that the rules aren't well enforced, so what we've tried to do is provide funding to the local communities to assist schools in becoming compliant, providing signage, doing education and training.

Q. If I could draw your attention to the third bullet point, it references a document entitled A Tobacco Use Prevention Education Teacher Guide entitled, quote, "Healthy Kids, Tobacco Free," close quote, and makes mention of the fact that it was developed by the Department of Education. Are you familiar with that publication at all?

A. No.

Q. The next bullet point makes reference to ongoing teacher training in tobacco use prevention education. Do you have any familiarity with that program or that training at all?

A. No.

Q. Do you have any understanding of any kind that that training is provided by any of your competitive grantees?

A. No.

Q. In terms of ongoing teacher training, would it be your belief that that is more likely handled by the Department of Education, as opposed to the Tobacco Control Section?

A. Yes.

Q. Again, do you have any reason to disagree with either of the bullet points that I've questioned you about in the right-hand column?

A. Well, there is data from school administrator surveys and school teacher surveys that disagrees, in terms of the perception of training received.

School administrators indicate that teachers are receiving training, and school teachers indicate that they are not.

Q. Do you know what lies at the genesis, if you will, of that disagreement? Has that been discussed in the context of your strategic planning, in terms

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of
designing programs?
A. No.
Q. Do you have any personal understanding as to what the disagreement is between the administrators and the teachers?
A. No.
Q. If I could draw your attention to page 518,

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the following page. Midway down --
A. I'm sorry, I don't have a page 518.
MR. MANSFIELD: I don't either. I have 520.
MR. L'ORANGE: Look in the full version.
Q. If I could draw your attention to the second full footnote, it addresses the media campaign in the 1993 to 1995 time frame, and it says, quote, "The innovative, hard-hitting statewide media campaign has captured the attention of Californians: 78.7 percent of adults and 87.5 percent of school children can recall ads from the media campaign," close quote.
Were the figures that are set forth in this bullet point gathered by the telephone survey unit that you described for me earlier this morning?
A. I don't know.
Q. Do you have any understanding as to where these figures came from?
A. They could have come from the statewide telephone surveys that are done internally, or by the survey that we contract out to the University of California, or they could have been part -- I know the media campaign also at one time had their own evaluation, but I don't recall what time period.
Q. Could you describe for me, just briefly, the telephone survey services that you contract out to the University of California.
A. I can give you a broad general overview of it.

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Q. Would you, please.
A. It's a large telephone survey that's done every three years that allows us to get better demographic splits because it's so large, and it's

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usually done in a very targeted few-month time period, whereas the ones that are done internally are done every few months.

Q. When you say "a large telephone survey," any idea about the population it's surveying? How large?

A. It's probably about 40,000 households.

Q. And that's done every three years?

A. Um-hum.

Q. The data is then sent to your unit for evaluation -- strike that. The data is returned to the -- was it the data evaluation unit that we spoke about earlier? Data analysis and evaluation unit, is that who interprets the data from UC?

A. No.

Q. Do they give you the interpreted results?

A. Yes.

Q. Any idea which of the UC campuses performs this function?

A. San Diego.

Q. Now there's been reference to a report done by the University of California at San Diego. Are you familiar with that at all, on antismoking media?

A. On media?

Q. Well, on media and the state of awareness

with respect to smoking issues in the state of California.

A. They do this large telephone survey and they ask questions related to behavior, knowledge, attitudes, belief, which would include media.

Q. Is that a report that is furnished to your unit?

A. Yes. Well, not to my unit.

Q. It comes to the Tobacco Control Section?

A. Right.

Q. Is it published in the literature, to your knowledge, in terms of an article?

A. The individuals who have prepared the report have published a number of individual articles based on that survey.

Q. How many such reports, to your knowledge, have you prepared?

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A. Several.
Q. So the program's been in existence ten years?
A. Um-hum.
Q. Every three years there would be at least three, is that a fair statement, or were the reports started later than that?
A. There's at least three.
Q. To your knowledge, was the first report done about three years into the program?
A. No.
Q. When was the first one done?

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A. I think the first one was like '91.
Q. The second one would be roughly '94, '95, on a three-year period?
A. There was an interim one that focused on youth, I think, in '92 also.
Q. So we're looking at one in '91 --
A. Um-hum.
Q. -- one sometime around three years after, between those three years, an interim one --
A. Um-hum.
Q. -- and then there's been a third one between about '94, '95 and the present, would that be a fair...?
A. I think the last one was actually around '96, '97.
Q. Is there a specific title of these reports?
A. No.
Q. Do you know who the lead author is on the reports?
A. John Pierce.
Q. Do you know if the reports have ever been...
Do you know if any article in the peer review literature has ever appeared summarizing the results of the report as to the state of awareness or attitudes regarding tobacco in California?
A. Literature... in the literature there would be very specific little pieces that John has selected to focus on. The reports are lengthy, and he's focused on small pieces.

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Q. Does your section have copies of the

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reports,
to your knowledge?
A. Yes.
MR. L'ORANGE: Let's go off the record for a minute.
(A discussion was held off the record)
MR. L'ORANGE: Q. Could I ask you, if you would, to take a look at page 0531.
Now at least in the 1993 to 1995 time period, this document indicates, in the second full paragraph, that the target groups for the California Tobacco Control Program, at least at that point in time, were school age youth, ethnic groups, and they go into the description of the groups that you've previously outlined for us, young adults and low-income individuals, pregnant women and women of childbearing age, and current smokers. Do you see where I'm focused?
A. Yes.
Q. Have these target groups been the same since the inception of the program in 1989, or have they evolved over the duration of the program?
A. These groups are identified in the enabling legislation.
Q. And then based on that, would it be a fair statement to say from the inception of the Proposition 99 program, the target groups are as they are stated on 0531?
A. No.

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Q. What would be wrong with that statement?
A. We refocused the program around 1993 to stop talking about target groups and talking about priority areas.
Q. So somewhere in '93 there was a shift between the target groups that are set out in 0531, to the priorities that you identified for us earlier this morning.
A. Yes.
Q. Is that a fair statement?
A. Um-hum.
Q. Could I ask you, please, to turn to 0546.
If you would look at the end of the left-hand column and the beginning of the top of the right-hand

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column, it reads, "TEOC recommends that CDE" -- that would be the California Department of Education?

A. Um-hum, yes.

Q. -- "continue to develop and improve multicultural strategies to reduce tobacco use among various ethnic populations."

Now I recognize that the text indicates that TEROC was recommending that to the Department of Education. Was that also a directive to your unit in the Tobacco Control Section?

A. I don't think so.

Q. Have you, from the outset, focused on developing multicultural strategies to deal with tobacco issues among the various ethnic populations?

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A. Yes.

Q. And one of those responses would be the ethnic network that you described?

A. Yes.

Q. Would it also be the -- providing the funds to ethnic competitive grantees for programs, true?

A. Yes.

Q. What other activities would you describe that could be covered under the rubric of multicultural strategies designed to address tobacco issues in ethnic groups?

A. We administer a number of work groups, and we try to be inclusive and include ethnic racial representation on those work groups so that campaigns and trainings are addressing those populations.

We have a tobacco education clearinghouse that provides multilingual materials and provides assistance to people developing multilingual materials, and we administer the California Smokers Help Line that provides smoking cessation services in several languages.

Q. When you use the term "work group," would this be a group designed to coordinate efforts of a variety of populations, some of which would be ethnic, with respect to antismoking campaigns or issues?

A. Can you rephrase that or something?

I'm not quite sure what you're asking.

Q. I'm not either, truthfully.

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What is a work group? What's its

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function?
A. To design trainings or a special campaign
that would address a particularly salient issue.
Q. And you would include ethnic representatives
to ensure that that part of the community had programs
designed to reach it?
A. So that they would be culturally sensitive,
that's correct.
Q. And by culturally sensitive, can you tell me
what you mean by that?
A. Well, certain things are offensive in certain
communities, and we wouldn't want to design campaign
messages or strategies that would be offensive to
communities.
Q. Would an example of that be -- and this
surfaced during the deposition of Ms. Steele from
Asher -- that one might design a campaign about tobacco
involving Native Americans differently, given that they
tend to treat tobacco as a sacred plant?
A. Yes.
Q. If I could ask you to look at -- about midway
down on the right-hand top paragraph, the sentence
begins, "In particular" -- or "In particular, the
problem of tobacco use is very pronounced among the
nearly one-half million immigrants arriving each year,
many of whom do not know the dangers of smoking."
Do you see that sentence?
A. Yes.

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Q. Now recognizing the programs that you have in
place currently, are there any which are designed to
reach immigrants who arrive in California?
A. Yes.
Q. How many of the programs are designed to
reach newly arrived immigrants?
A. I don't know.
Q. Can you give me an estimate?
A. I could... No, I cannot.
Q. Is it fair for me to say that for -- and by
recently arrived immigrants I'm talking about the guy
that got here yesterday, or the guy who's been here for
about six months to nine months.
Is it fair to say we have programs in place

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designed to reach those people to familiarize them with the dangers of smoking, ETS, and other tobacco-related issues?

A. In some areas of the state we have a few programs that do that.

Q. Do you have any understanding geographically as to what those areas are?

A. Yes.

Q. Can you tell me?

A. There's probably one in San Diego, a couple in Los Angeles, and a couple in the Bay Area.

Q. If I referred you back to the list of the grantees that was contained in Exhibits 116 and 117, would that help at all to identify them by -- are you

familiar enough with them that you could identify them by name?

A. I couldn't identify every single one, but I could identify several.

Q. Could I ask you, please, to look at both exhibits. Before you do that, the concentration of the programs designed to reach the newly arrived immigrants, are they located in the areas that are most likely to be the venue of newly arrived immigrants? Is that why they're in San Diego, Los Angeles, and the Bay Area?

A. Well, I think there's other areas of the state. The Central Valley has a lot of Southeast Asians.

Q. Do we have programs in the Central Valley designed to reach newly arrived Southeast Asian immigrants, to your knowledge?

A. I don't know.

Q. Could I ask you, please, to look at 116 and 117 and try and give us an idea of the grantees or the local lead agencies that have programs in place to deal with newly arrived immigrants.

A. On 116?

Q. Yes, ma'am.

A. Union of Pan Asian Communities, Vietnamese Community of Orange County, African Community

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Resource
Center.
Q. Can you tell where the African Community
Resource Center is located?

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A. It's in Los Angeles.
This contract was terminated, though.
Q. Do you know when?
A. When?
Q. Yes, ma'am.
A. January.
Q. Of this year?
A. Yes. Asian Pacific Health Care Venture,
Cambodian Association of America.
Q. Are these all in Los Angeles?
A. Union of Pan Asian Communities is in San
Diego, the Vietnamese one is obviously in Los Angeles,
the Asian Pacific Health Care Venture is in Los Angeles,
the Cambodian Association of America is in Los Angeles,
Catholic Charities, Diocese of San Diego, Imperial
County Health Department, Libreria Del Pueblo, it's
either in Riverside or San Bernardino County.
St. Mary's Medical Center Foundation.
Q. And that's located?
A. Long Beach. San Francisco Department of
Public Health. That's all I recognize off this 116.
Q. How about 117?
A. Los Angeles County Department of Health
Services, the California Statewide Vietnamese
Anti-Tobacco Media Project.
Q. As you're looking through the list, would it
be fair to say that each of the organizations that you
have named for us interfaces with your unit to make sure

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that the anti-tobacco messages that they present are
done so in a culturally sensitive way, given the
population they're serving?
A. Yes.
Q. Anybody else off 117 that deals with recently
arrived immigrants?
A. Not that I recognize.
Q. Now if I could draw your attention to page
0566 on your abbreviated version.
At the bottom of the page, the last footnote,
there is reference again to the two percentages

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that I gave you with respect to recall on ads from the media campaign, 78.7 percent of adults, 87.5 percent of school children. Again, any recollection of who compiled those figures?

A. No.

(Defendants' Exhibit 119 was marked for identification)

MR. L'ORANGE: Q. Ms. Roeseler, if I could ask you for a moment to look at what's been marked as 119-A and B, and let me represent to you that these are documents that we took from the materials produced by the Department of Health Services. Have you seen either of these documents in the past?

A. Yes.

Q. Are you involved in any way in the preparation of these budget allocation summaries?

A. No.

Q. Does your unit provide fiscal data that leads to the creation of any part of either of these documents?

A. No.

Q. Do you keep track in your unit of how much is spent in the course of your fiscal year on competitive grantees or local lead agencies?

A. No.

Q. If I could ask you to look at Exhibit 119-A, let me represent to you that the document is the Prop 99 health education account budget appropriation summary for 1989 -- fiscal year '89 - '90 through fiscal year '97 - '98.

Do you have any reason to disagree with the appropriated numbers that are set out for the competitive grants and the local lead agencies on this document?

MR. MANSFIELD: What do you mean by "disagree"?

MR. L'ORANGE: Does she have any information that suggests that these are not accurate numbers.

THE WITNESS: No.

MR. L'ORANGE: Q. You indicated

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earlier that
your unit is charged with dealing with the local lead
agencies. Could I draw your attention to the medical
services element? There's a footnote one.
It has "LLA Comp. perinatal outreach."
Are you familiar with that program at all?

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A. Yes.
Q. Do you administer that through your section?
A. No.
Q. Do you know who does administer that, from
the DHS standpoint?
A. The maternal health care branch did.
Q. In the left-hand corner where it says "TCS
elements," is your unit responsible, as you look at
these elements, for anything beyond competitive grants
and local lead agencies?
A. No.
Q. Now if I could ask you to look at what has
been marked as 119-B, and let me represent to you that
this is the appropriation summary from fiscal year 1989
- '90, all the way through to the budget act of 1999.
Again, did your unit in any way provide
information that led to the creation of this document,
to your knowledge?
A. No, no.
Q. Have you seen this document before?
A. Yes.
Q. Can you tell me in what context you've seen
Exhibits 119-A and B?
A. They're distributed at our senior staff
meeting so we can keep track of what the budget
allocations are.
Q. Again, you are responsible for competitive
grants and local lead agencies?

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A. Yes.
Q. Do you know who compiles these documents?
A. Robin Shimizu works on them.
Q. Do you have any understanding as to how she
goes about that task?
A. Yes.
Q. Can you tell me?
A. Well, a -- the governor comes out with

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a
budget in January and comes out with a May revise in the
middle of May, and these are line items that
appropriations are made to, and then the legislature
goes through a budget process and hopefully we get a
signed budget and we end up with these appropriations.
Q. Do you know how the ultimate numbers that are
appropriated are arrived at? Is it a function of a
formula, or is there a committee or an organization that
sits down and arrives at these numbers?
A. There's no formula, and I don't know how the
legislature determines budget appropriations.
Q. That makes two of us. Okay.
My question on 119-B, same as 119-A, do you
have any information that would suggest that there are
any -- that these are inaccurate numbers, as set forth
in 119-B?
A. No.
MR. L'ORANGE: Why don't we take a break for
a moment.
(A recess was taken from 1:43 to 1:55 p.m.)

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(Defendants' Exhibit 120 was
marked for identification)
MR. L'ORANGE: Q. Ms. Roeseler, if I could
ask you to look at what's been marked as
Defendants' 120. The full unmarked document has been
given to you. Have you had an opportunity to just
peruse through it?
A. Yes.
Q. And again, as we've done before, we have some
extracts out of the entire document that we'd like to
question you about.
First of all, do you recognize what has been
marked as... Strike that. With respect to the unmarked
document, do you recognize it as Program Letter 98-01?
A. Yes.
Q. What is a program letter?
A. It's an official communication from our
office to our contractors that's generally updating them

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on policies and procedures.
Q. Is a program letter something that is sent out on a regular basis, or is it a periodic update, given what you're trying to update people about?
A. It's periodic.
Q. Do you prepare program letters at all?
A. Yes.
Q. And does your section get involved?
A. Yes.
Q. What input does your section have with

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respect to program letters?
A. We write them.
Q. If I could draw your attention in Exhibit 120 to what has been designated as page 0605, the last full paragraph at the bottom of the page, under Environmental Tobacco Smoke, the third sentence in reads as follows, "Spurred by the LLA's educational efforts" -- that would be the local lead agencies?
A. Correct.
Q. -- "local coalition volunteers" -- would those be the coalitions you described for us this morning?
A. Yes.
Q. And then there's a whole variety of organizations: "The Smoke Free Cities Project, Americans For Nonsmokers' Rights, the American Lung Association, the American Cancer Society, and the American Heart Association, with support from regional community linkage projects" -- that would be the projects you defined for us this morning, correct?
A. Yes.
Q. -- "and the Tobacco Control Section's statewide media campaign, from 1990 to June 1994 over 100 cities had enacted smoke free ordinances."
Now with respect to those 100 cities that enacted the smoke-free ordinance, is it a fair statement to say that those ordinances arose out of the activities conducted by TCS, the media campaign, and the

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educational campaign put together by your section?
A. Well, I believe what this sentence was doing was also giving credit to the voluntary health associations.
Q. Do you work, in conjunction with the voluntary health associations, in developing

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messages?
A. Sometimes, yes.
Q. Do they comprise part of the work group that you described for me earlier?
A. Yes, um-hum.
Q. Do you and the voluntary health organizations, do you conduct campaigns where your message is basically the same in both campaigns?
In other words, if you wanted to conduct an ETS campaign, have there been instances where you also coordinated with the voluntary health organizations, such that they were conducting an ETS campaign at the same time?
A. The voluntary health associations can do things that a state government agency cannot, so there are complementary activities that occur.
Q. What would be examples of things that the voluntary health organizations could do that you couldn't?
A. They can do lobbying and they can conduct media campaigns of a nature that our office is not able to.
Q. What do you mean by that?

A. There are things that our office has not been able to communicate, and so others have done that.
MR. L'ORANGE: Off the record.
(A discussion was held off the record)
MR. L'ORANGE: Q. If I could draw your attention on page 606 to the last full paragraph beneath "Environmental Tobacco Smoke," there's a reference to, "Preliminary data from the University of California, San Diego's 1996 telephone survey indicates that California Tobacco Control Program's emphasis on protecting nonsmokers is associated with a major reduction in the exposure to secondhand smoke in workplaces and home."
Do you see where I'm reading from?
A. Yes.
Q. Earlier you described a large telephone survey campaign conducted by the University of California, San Diego. Would this be the campaign you were describing for us?
A. Yes.
Q. Now do you have any recollection that

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the
21 1996 telephone survey campaign conducted by UC San
Diego
22 dealt with secondhand smoke?
23 A. It included secondhand smoke, among
other
24 things.
25 Q. Would it be a fair characterization,
then,
26 that this paragraph is reciting at least a
conclusion
27 about ETS that may have been reached in addition
to
28 other conclusions from that survey?

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1 A. Yes.
2 Q. Does your office participate in a
telephone
3 survey in any way, other than receiving ultimately
a
4 report from Dr. Pierce?
5 Do you design the questionnaires?
6 A. We occasionally talk about questions
that we
7 want to have added or that we want questions asked
8 consistently with national surveys.
9 We discuss the presentation of the
findings.
10 But it is an independent report provided to us.
11 Q. This is a bad way of asking it, but is
the
12 report, in your opinion, a measure of how
successful
13 your program has been, given the state of
awareness
14 that's reflected from the telephone survey?
15 MR. MANSFIELD: I don't think -- I'll
object.
16 I think her opinion is not relevant,
her
17 personal opinion. If she has the department's
view, she
18 can speak to that.
19 MR. L'ORANGE: Q. With that caveat.
20 A. I would think that researchers would
say you
21 can't draw a cause and effect relationship from a
22 telephone survey.
23 That what you have here is trend data.
24 Q. Is the trend data of any value to your
25 section in assessing the success of getting the
26 anti-tobacco message out?
27 A. Yes.
28 Q. What is the significance of the trend
data to

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1 your section?
2 A. It shows us areas where we're making
3 progress, and areas where we need to work harder.
4 Q. And while they are handing me the
exhibits,

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are you familiar with the study that was done or an evaluation entitled The Drug, Alcohol and Tobacco Education Evaluation that was conducted by the Southwest Regional Lab? Does that ring any bell at all?

A. I have a small amount of familiarity.

Q. Could you give me the small amount of familiarity with respect to that study.

A. The Department of Education used to be responsible for evaluating the effectiveness of its Prop 99 education program, and SWRL is the agency they contracted with to conduct that evaluation. S-W-R-L, Southwest -- you said "Southwestern."

That's the acronym.

Q. So that the drug, alcohol, and tobacco education evaluation was done by SWRL for the Department of Education to assess how effective its programs had been in the educational arena, would that be --

A. Yes.

Q. Do you know if that was ever published in any way?

A. No, I don't.

(Defendants' Exhibit 121 was marked for identification)

MR. L'ORANGE: Q. Ms. Roeseler, I'm handing

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you an unmarked copy of the entire document, and a marked copy of that portion that we want to examine you on. If I could ask you to take a moment and just check the unmarked copy of the document.

Have you seen this document before?

A. Yes.

Q. Can you tell me what it is, please.

A. There's two different things here.

One is a brochure that describes the services of the Tobacco Education Clearinghouse of California, and the other is the catalog of educational materials which our contractors can purchase from us.

Q. Now we've touched on this briefly, but could you explain to me what the Tobacco Education Clearinghouse of California is?

A. They're a contractor of ours that we contract with to provide bulk distribution of health education materials, to run a library service for our

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contractors,
and to provide technical assistance on developing
educational materials, and they also run the
PARTNERS
for us.
Q. The educational materials that are
developed,
are they done by competitive grantees, or does
your
section develop them?
A. Both.
Q. When you say "both," is it a
cooperative
effort by the grantees and your section to... to
arrive
at a particular educational piece, or does the
grantee

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develop it and then submit it to you for review?
A. Grantees generally produce their own
materials and the state produces its own
materials.
Q. Is there any effort to combine those
materials into a single document that may be a
collaborative effort between the state and
grantees?
A. Some of the materials probably have
input
from the state, some of the materials developed by
the
locals that we might provide editing suggestions,
and
then we will frequently run our materials by
people at
the local level and focus group test them to
determine
whether the message is getting across.
Q. Who develops the educational materials
in
your section?
A. My staff.
Q. So that -- tell me how that process
works.
A. Generally when there's a new state law,
those
are the materials we have developed. So the state
act
brochure, brochures that dealt with AB 13, the
smoke-free bar law, we have developed those.
So we read the legislation, we try to
put it
in layman's terms, we work with the clearinghouse
to
focus group test the materials with a target group
audience, it goes through review processes.
Q. The educational materials that you
develop,
they would be inclusive of posters?
A. My unit, we haven't developed posters.
Q. Brochures or handouts?

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A. Um-hum, yes.
Q. What other types of materials has your unit developed?
A. We've developed some collaborative promotional ideas.
Q. Such as?
A. T-shirts, hats.
Q. You don't have it in your marked materials, but if I could ask you to turn in the full document to page 0704, the section of the -- it's actually the page right after the title page. If you note on the materials distribution system there's reference to a number of languages: English, Spanish, Chinese, Korean, Vietnamese, Cambodian, Hmong, Laotian, and Samoan.
To your knowledge, are materials developed in any other languages, outside of what's referenced on 0704?
A. Could you be a little bit more specific with your question? Who? Developed by who?
Q. Do you know how many languages materials developed through the use of Prop 99 are distributed in, besides English?
A. No.
Q. Can you give me an estimate of the number of languages?
A. No.
Q. Could we run through the list for a moment that's set out in 0704.

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Materials are distributed in Spanish?
A. Yes.
Q. Korean?
A. Yes.
Q. Chinese?
A. Yes.
Q. Vietnamese?
A. Yes.
Q. Cambodian?
A. Yes.
Q. Hmong?
A. Yes.
Q. Laotian?
A. Yes.
Q. Samoan?
A. Yes.
Q. Are there other languages that Prop 99 -- that materials that have been funded by Prop 99 have

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been submitted in, other than those languages we've covered?

A. Yes.

Q. What are those languages?

A. I don't know all of them, and I don't even know if I could pronounce some of them, but I know that we have some contractors who work in Asian communities other than these, like Thai, and there are some African immigrant nations that I can't tell you what they are, but there have been materials that have crossed my desk

that I have seen.

Q. Are there multiple Chinese dialects that Prop 99 funded materials are printed and published and distributed in?

A. The written language of Chinese is just one language, so...

Q. Is it the pronunciation differences that give rise to Cantonese versus Mandarin?

A. Yes, right.

Q. If I could ask you, please, to turn to...

Within the Tobacco Education Clearinghouse of California, is there any one person you can think of who would know the number of languages in which materials are printed in? Or within TCS generally?

A. Mark Fulop is the current project director for the clearinghouse, but I don't know that they necessarily have everything cataloged.

This catalog represents the materials that made a certain cut or review process or were of a high enough quality to get into here.

Q. Does that imply that other materials were submitted but were rejected because of quality?

A. Yes.

Q. Now you'll note that the date on this catalog is the spring and summer of 1998. In a fiscal year, how often does this catalog get issued?

A. Twice a year.

Q. Spring and summer, fall and winter?

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A. Yes.
Q. Based on your review of the document, would you agree with me that the posters depicted in the document are grouped according to the subject matter they're addressing? In other words, there's a whole section that deals with ETS?
MR. MANSFIELD: Which poster?
They don't appear in my abbreviated document.
MR. L'ORANGE: Starting on page 721.
MR. GROSS: I think it's only on the main document. Not the abbreviated document.
MR. L'ORANGE: My apologies.
They've been excluded.
Q. If I could ask you to look at page 0721 through 0738, would you agree with me that this appears to be a collection of posters?
A. No.
Q. What's wrong with my question?
A. There are other materials here that are in a format other than posters.
Q. But from 0721 to 0739, these are the materials that address reducing exposure to environmental tobacco smoke?
A. Yes.
Q. As of the spring and summer of 1998?
A. Yes.
Q. Are these materials in any way -- strike that. Does your section play any role in the creation

of these materials?
MR. MANSFIELD: Are you referring to the materials on certain pages?
MR. L'ORANGE: That's correct, 0721 through 0738.
THE WITNESS: There are some materials in here that our section played a role in creating.
MR. L'ORANGE: Q. Can you tell me what the role was?
A. There are a few that our section created.
Q. Are there any that your section assisted in the creation of along with a competitive grantee or a local lead agency?
A. There are some materials in here that were a joint effort.
Q. Now the materials depicted from 0721 to

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0739,
17 have all of these been used, in terms of published or
18 distributed at one time or another, to your knowledge?
19 MR. MANSFIELD: Used by who?
20 MR. L'ORANGE: Anybody who wants them.
21 THE WITNESS: I don't know.
22 MR. L'ORANGE: Q. What is the process to get
23 these materials? Do you simply contact the
24 clearinghouse and make a request, provide them with
25 money, and you receive the materials by return mail?
26 A. Right.
27 Q. These are available to competitive grantees?
28 A. Right.

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1 Q. Are they available to -- can anyone in the
2 state of California, if they want these materials,
3 contact the clearinghouse and obtain them, so long as
4 they're willing to pay for them?
5 A. No.
6 Q. Who's excluded from getting these?
7 A. We generally market only to our contractors,
8 the Department of Education, and to other state health
9 departments. Occasionally we allow others...
10 Q. Private health organizations, the voluntary
11 health organizations? Can American Lung get these?
12 A. They probably could, if they asked.
13 Q. If we could go back for just a moment to the
14 Tobacco Education Clearinghouse.
15 Do you have any understanding as to whether
16 or not there has been a media campaign or series of ads
17 which was directed to Native Americans, Indians?
18 A. Advertising that the Tobacco Control Section
19 media campaign developed?
20 Q. Yes, yes.
21 A. No.
22 Q. There has been no campaign, or you have no
23 knowledge?
24 A. We have not developed advertisements for that
25 community.
26 Q. Do you have an understanding as to why?
27 A. Yes.
28 Q. Why?

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A. There's no Native American media outlets for television and radio.
Q. Do you have any understanding as to whether anti-tobacco messages carried on the commercial airwaves that they're being carried on right now will reach Native American populations? In other words, there may not be Native American outlets, but do they still get the message by watching normal commercial television?
MR. MANSFIELD: That calls for speculation.
You can answer, if you know, but don't guess.
THE WITNESS: Yeah, I wouldn't guess.
MR. L'ORANGE: Q. Are you aware of any data at all to where either the Tobacco Control Section or the State has tried to determine whether or not they are reaching this population through normal commercial outlets?
A. No.
Q. Now the fact that there is no media campaign specific to Native Americans, has that led, in your section, to the creation of more programs designed to address that segment of the population, since there's no media campaign that would be a counterpart?
A. No.
Q. There are, in Exhibit...
Are there, in Exhibit 120, specific ETS materials contained between section -- pages 0721 and 0738 designed for the Native American population?
A. Yes.

Q. Do you have any tracking data at all as to how frequently those materials are requested for use by Native Americans?
A. Yes.
Q. Can you tell me how frequently that is?
A. No. I don't know off the top of my head.
Q. Can you give me an estimate at all?
A. No.
Q. Do you have any understanding whether they were frequently or infrequently requested?
A. I don't know.
Q. Do you have any understanding as to the specific grantees or local lead agencies that

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address
Native American needs?
A. Yes.
Q. Can you tell me what those are?
And I don't mean this to be a memory test, if you want to refer back to other exhibits.
A. Yes. Is that...
MR. MANSFIELD: Yes.
THE WITNESS: In 117, Alpine County Health Department.
MR. L'ORANGE: Q. Okay.
A. American-Indian Tobacco Education Network, California Rural Indian Health Board, the High Country Region, the Native American Coalition Against Tobacco.
Q. What about the Indian Health Council?
A. Oh, let's see. Yeah, they would be.

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This Native...
Q. American Coalition Against Tobacco?
A. Native Americans Taking Initiative on Values and Education, Riverside-San Bernardino County Indian Health, Santa Barbara County Health Care Services.
Q. How about the United Indian Nations, Inc. and the United Indian Services, Inc.?
A. Yes. Ahmium Education.
Q. I'm sorry, you're reading from where now?
A. 1068. Ahmium.
Q. Okay.
A. Those are the ones I recognize.
Q. Now is it fair to say that these groups conduct activities or circulate materials that would be designed to fill the gap that exists because there's no media campaign directed to Native Americans?
A. No.
Q. What is their function?
A. They conduct community health education and policy initiatives. Ideally you would have it supported by some kind of media.
(Ms. Martin returned to the deposition)
MR. L'ORANGE: Q. Is there any plan that you're aware of to increase services to the Native American population, since because of the absence of outlets there's no media campaign made for them?
A. No.
Q. They don't receive additional or excess

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fundings for additional programs because of the absence of a media campaign?
A. No.
(Defendants' Exhibit 122 was marked for identification)
MR. L'ORANGE: Q. Let me represent to you that the document has been copied as we received it, and the pagination, you will note, is off, in the sense that the pages are not necessarily in order. They're all there, but they are not, at least in the front part of the document, necessarily in order.
Let me draw your attention to what's been marked as Exhibit 122 and ask you if you would, please, to examine for a moment pages 0763, 0766, and 0768.
As I understood your earlier testimony, the legislation required that California school districts become tobacco free, true?
A. If they take the Prop 99 money.
Q. Now has the number of districts grown over the ten years of the program that took Proposition 99 money?
A. I don't know.
Q. Do you have any knowledge that some school districts took it in the 1989 - 1990 time frame, but now practically every school takes it?
A. No.
Q. Let me go at it from the other end of the telescope. Are there school districts that you're aware

of that do not take Proposition 99 money?
A. I don't know who they are, but I have heard there are schools that do not take the Proposition 99 money because they do not want to be tobacco-free campuses.
Q. Any idea why they do that?
A. They make more money on bingo than they get from Prop 99.
Q. These wouldn't be Catholic schools, would they?

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A. No, these are public schools.
Q. Do you have any personal knowledge that would suggest to you that the number of tobacco-free school districts that are depicted on 763 and 766 is in any way inaccurate?
A. No.
Q. Now the same question for the smoke-free cities that are depicted on 0768.
Do you have any reason to believe that the cities, as set out on this page of the exhibit, are inaccurate in any way?
In other words, some of them are not smoke free, while this document would represent that they are?
Is this an accurate document, so far as you know?
A. Yes.
Q. Now if I could ask you to look at page 787 and 788, you'll find in your documents that they are reversed. 788 is first, 787 is second.

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Now drawing your attention to the bottom of page 787, the last footnote in the right-hand corner under the section Key Accomplishments of the Initiative.
Is it your understanding that the initiative is addressing Prop 99?
A. Yes.
Q. And have you -- let me go back.
Have you seen the unmarked document, Toward A Tobacco Free California, before?
A. Yes.
Q. And again, did your section play any role in the creation of this document?
A. Yes.
Q. Can you tell me what that was?
A. Staff support.
Q. Same role you played with respect to the other exhibit?
A. Yes.
Q. Now again drawing your attention to 0787, you'll note the footnote in the lower right-hand corner reads, quote, "80 percent of California children younger than 17 years were protected from environmental tobacco

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smoke in the home in 1993."
Do you have any personal understanding as to
where that figure was derived?
A. Yes.
Q. Can you tell me, please?
A. From the surveillance, telephone survey

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through John Pierce.
Q. So this is one of the telephone surveys conducted by Dr. Pierce, under the auspices of the University of California San Diego?
A. Yes.
Q. And given the date of this document...
Off the record a minute.
(A discussion was held off the record)
MR. L'ORANGE: Q. I was going to ask you, given the date on the document can we tell which of the telephone surveys this is, but I can't find a page that has a date. Let me draw your attention to what in the full document is the following page, what in your document is the preceding page, 0788.
In the first full column on the left-hand side, underneath Tobacco-Free Policies, there is reference to the passage of AB 816 which moved the date by which schools were to become tobacco free up from 1996 to 1995. Do you see where I'm reading?
A. Yes.
Q. Were you involved in that decision at all?
A. No.
Q. Can a school, after 1995, decide to become tobacco free? In other words, there's not a magic demilitarized zone by 1995, you either made the decision then and you couldn't make it thereafter?
A. Correct.
Q. So a school district, to the extent that it

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had not been tobacco free pre-1995, could elect even today to become tobacco free?
A. Yes.
Q. In the course of the last two years, to your knowledge have any school districts elected to become tobacco free?
A. I don't know.
Q. If you'll take a look at the bottom of the middle paragraph, the last portion, what appears

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to be a
paragraph that spills over to the next column and it
reads, "In addition, nearly every school district in
California (97 percent) provides alcohol, tobacco and
other drug prevention education training for at least
some of its staff." Do you see where I'm reading there?
A. Yes.
Q. Does your unit participate in that training
in any way?
A. No.
Q. Is that strictly handled, to your knowledge,
through the Department of Education?
A. Yes.
Q. Do you have any reason to disagree with the
statement, as it's set forth in the document, that '97
percent of the school districts in California provide
that training?
MR. MANSFIELD: If you know.
THE WITNESS: It's the same issue I brought
up earlier. There's a disconnect between what the

administrators are saying and what the teachers are
saying, so this could be from the administrators'
survey
and not the teachers' survey.
MR. L'ORANGE: Q. Has the Tobacco Control
Section been approached by the Department of Education
to assist it in crafting messages that might be more
receptible from a teacher's standpoint?
A. No.
Q. Have you offered those services to the
Department of Education?
A. Yes.
Q. I take it you've been rejected?
A. Yes.
Q. Do you have any personal understanding as to
what facilities within the Department of Education are
used to create these messages designed to reach
teachers?
A. No.
Q. Do you know if they coordinate with any of
your staff members at all in the development of any of
the messages that go to teachers?

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A. No.
Q. No, you don't know?
A. No, we are not involved in helping the staff coordinate their messages.
Q. Skipping down in that paragraph, essentially the next-to-the-last sentence there is a notation that "Nearly 25 percent of the time teachers spend in

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training is devoted to issues related to tobacco."
Do you have any personal knowledge about whether or not that's an accurate statement?
A. No, I don't.
Q. Have you had any discussions with your counterparts in the Department of Education that roughly 25 percent of the time teachers spend in training is devoted to issues related to tobacco?
A. No.
Q. Have you gained any understanding, through your dealings with the Department of Education, that that's essentially a fact?
A. No.
Q. The next footnote makes note that in a typical district teachers will receive 33 hours of alcohol, tobacco, and other drug use prevention training. Do you have any reason to disagree with that statement at all, based on your personal knowledge?
A. Yes. I think, again, that our independent evaluation indicates that teachers don't perceive themselves as receiving tobacco-related training.
They perceive themselves as receiving general health education training.
Q. Are you familiar with the type of training that the Department of Education affords the teachers?
Have you seen the curriculums at all?
A. I haven't seen the curriculums.
Q. Has any teacher expressed to you what that

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teacher thought was the disconnect between how the administrators perceived the program being handled and the teachers perceived it, in terms of the receptor?
A. No.
Q. Have you gained any knowledge about what the nature of the disconnect is, just based on your

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discussions in your section or from any source?
A. It's our understanding that the Department of Education didn't provide training for a period of time because the money was decreased. More recently they have started to provide and beef up their trainings because they've been heavily criticized.
Q. Was that the time when the legislature or the governor diverted Prop 99 funds into other programs?
A. Yes.
Q. That would be, what?
Roughly the '94 - '96 time frame?
A. Yes.
Q. Do you have any understanding as to whether it is simply a lack of training, or is it the nature of the message that's being communicated from the administrators to the teachers?
A. It's both. They're not providing tobacco specific -- training on tobacco-specific curriculum.
Q. Could you tell me what you mean by that?
A. The Center for Disease Control has identified a couple of curriculums that have positive results, in terms of educating kids and delaying the onset of

tobacco use. The Department of Education hasn't directed the school districts what curriculum they're to use. It's up to them to choose a curriculum.
Many use a general health education curriculum rather than a tobacco-specific curriculum that has been identified as having positive results.
Q. Are there school districts within California, to your knowledge, that are employing the CDC's curriculum?
A. Yes.
Q. Do you know how many?
A. No.
Q. Has there been any attempt to evaluate the success of those school districts in reaching their teachers and students, as opposed to those districts that do not utilize a CDC curriculum?
A. The tobacco section is currently working with one school district to do just that.

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Q. If I could draw your attention to the last footnote in the third column, it says, "Outside the classroom, half the school districts in the DATE study provided training around tobacco-specific issues to parents." Do you have any personal knowledge about the type of training that these school districts may have provided to the parents?
A. No.
Q. Does your unit within tobacco control have programs wherein parental training with respect to

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tobacco issues is provided?
A. Yes.
Q. What are the nature of those programs? What's the message that's being communicated?
A. We worked through sports to identify -- to address youth and parents through that way, through WIC programs, the women and children programs, certain low-income women. There's a lot of effort directed towards not smoking in the home and outreaching through preschools, Head Start programs.
Q. Anything else that you can think of?
A. Not at this moment.
Q. Do you know who your counterparts are at the Department of Education that administer tobacco control policies?
A. Yes.
Q. Who are they?
A. Jerry Kilbert, and then Rae Kine.
Q. Rae?
A. R-A-E, K-I-N-E.
Q. Do they have specific titles?
A. You know, I don't know what they are. Jerry is the head of it, but Rae has been there from the beginning.
Q. Are you familiar with the TUPE program at all?
A. Can you be more specific?
Q. T-U-P-E.

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A. TUPE. That's the Department of Education.
Q. Do you get involved in that program at all? Provision of materials or anything like that?

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A. No. They can order more materials from our clearinghouse.

MR. L'ORANGE: Why don't we take about five minutes.

(A recess was taken from 2:49 to 3:03 p.m.)

(Ms. Sheridan returned to the deposition)

MR. L'ORANGE: Q. Ms. Roeseler, if I could ask you to take Exhibit 122 and look at page 0826, please, in the center of the page there's a series of footnotes, the second one of which reads as follows, quote, "Over 85 percent of California homes in which a child lives have a voluntary smoke-free home policy; a ten percent increase from 1992." It cites Pierce, 1997.

It then goes on to say, "Therefore, an estimated 7.8 million of California's 9.2 million children are protected from secondhand smoke at home. The percentage of all homes in the state with smoke-free policies rose from 27 percent in 1993 to 40 percent in 1996." Did your section provide any of these figures, to your knowledge?

A. For this report?

Q. Yes, ma'am.

A. It probably did, yes.

Q. Now the reference to Pierce '97, would that be one of the telephone surveys that you've described

for us earlier conducted through UCSD?

A. Yes.

Q. Do you have an understanding as to whether the determination that 85 percent of California homes have a voluntary smoke-free policy was a result arrived at as the result of Dr. Pierce's work, or did your section provide background information that led to that conclusion?

A. Well, there's a citation that says "Pierce, 1997."

Q. Would that lead you to conclude that this was a percentage arrived at by Dr. Pierce?

A. Yes.

Q. Now the last sentence indicates that the percentage of all homes in the state with

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smoke-free
policies rose from 27 to 40 percent.
Are we contrasting all homes, whether or not
a child lives in it? Is that your understanding of that
sentence?
A. Yes.
Q. Now do you have any idea where that figure
came from? Was that a result of your section's work, or
did that come from Dr. Pierce, or do you know?
A. I think that's from the Dr. Pierce stuff
because that says '93, '96, and those are the three-year
intervals that we were conducting those surveys at.
Q. If I could ask you please to turn to 0832 in
your document. You'll note at the top of the left-hand

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column it says, "1997 to 2000 Recommendations from the
Tobacco Education and Research Oversight Committee," and
if you look down midway in the left-hand column it says,
"Recommendation 2," quote, "Press for smoke-free
workplaces and homes."
Based on your involvement in the Tobacco
Control Section during the time period 1997 to 2000, was
it your understanding that one of the goals that the
Tobacco Control Program was designed to achieve was
smoke-free homes during the time period 1997 to 2000?
A. Yes.
Q. Did you orient... Did your section develop
programs or materials to be distributed by the local
lead agencies or the competitive grantees designed to
achieve smoke-free homes?
A. Did our state staff do this, is that the
question?
Q. Yes, yes.
A. Not that I recall.
Q. Was smoke... Was smoke-free homes a priority
for the local programs unit from 1997 to 2000?
A. It's an area that people... that our
contractors could address. We don't dictate to the
local level what they have to do.

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We have these three broad program priorities.
Q. And that's the ETS reduction?
A. Yeah, youth access, countering pro. But local communities have to decide what's

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appropriate for their community.
Q. Correct me if I'm wrong. As I read the first paragraph, TEROC makes a recommendation to the Tobacco Control Program as to what its -- if you will -- goals ought to be. Is that a fair characterization? Or better yet -- let me phrase the question differently.
Can you tell me how the process works when TEROC makes these recommendations?
A. We use these recommendations to justify where the program's going. We incorporate recommendations into our RFPs.
Q. So if TEROC, as a recommendation, suggests that the program ought to press for smoke-free homes, that recommendation will be reflected in some of the RFPs that you let out for bid?
A. Yes.
Q. And you'll encourage competitive grantees to create programs designed to reach and create smoke-free homes?
A. Yes.
Q. This would be a goal that you would want to achieve, it may not necessarily be a goal that's emphasized?
A. This covers 1997 to 2000. What happened in 1998 was smoke-free bars. Almost everything was redirected to smoke-free bars, making that work. So a lot of these other things got pushed aside.
Q. Now that we have smoke-free workplaces and

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smoke-free bars, has there been an increased emphasis now on smoke-free homes?
A. Smoke-free bars still needs help, and we are continuing to provide that assistance. This is an area that we certainly are working on and continue to provide

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opportunities for funding.
Q. "This" being smoke-free homes?
A. Yes.
Q. If I could draw your attention to page 838, please. Table 4 is what I'd like you to take a look at for a moment. To your knowledge, did your section provide any of the numbers or analyses that led to the creation of Table 4?
A. Yes.
Q. Can you tell me what your knowledge or awareness is as to how Table 4 was created?
A. This reflects a combination of numbers from the John Pierce surveys and the CATS and behavioral risk factor, which are the internal in-house surveys.
Q. Behavioral risk factors is the --
A. The BRFS, right.
We combine -- the CATS is a tobacco specific, the Behavioral Risk Factor Survey asks a lot of health-related questions but has smoking on there, and we... they do something to add those two numbers together to come with a large enough sample size.
Q. And when you say this is conducted internally, this is conducted by the department?

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A. Yes. The CATS and BRFS.
Q. And you subcontract that out to someone, or do you use internal staff for that?
A. It's under the auspices of the cancer surveillance section, and I think they also contract out with the public health institute, actually, to do the -- the people who make the telephone calls.
Q. Is it fair to say that this chart is basically charting out smoking prevalence from 1990 to 1996 based on the race or ethnicity set forth in the chart?
A. Yeah. Um-hum.
Q. Do you have any reason to disagree with these numbers? Is there anything that you're aware of that would suggest to you that these numbers are inaccurate?
A. There are issues around some of these numbers.
Q. What are those issues?
A. There's an issue around what John Pierce used as the starting point for the prevalence number.
Q. Meaning was he too high or too low?
A. I think he started it out at around 26

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percent, and now there's a question whether that was accurate of him. He took a sample of a national survey.

There's an issue that CDC changed the definition of smokers in 1996 and John Pierce was told to change the definition on his but he didn't.

Q. Can I ask you what your understanding is as

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to the inaccuracy of the 26 percent figure that he chose as the prevalence rate; is that too high or too low?

A. It's my understanding that overestimates.

Q. So that the actual prevalence may have been lower?

A. Correct.

Q. Do you know how much lower?

A. No.

Q. Are we talking a full percentage point or a portion?

A. Yes.

Q. More than one percentage point?

A. Yes.

Q. Can you give me an estimate on what you think it may be?

A. No. I don't remember.

Q. Now with respect to the change in the definition of the smoker or smoking in 1996, what is your understanding as to the effect it had on the prevalence estimates set forth in Table 4?

A. The CDC definitional change increased the smoking prevalence by approximately one percent.

So we have the CATS and BRFS using the new definition and some of John Pierce's work not using the new definition, so the numbers aren't really comparable.

Q. Has there been, to your knowledge, any attempt to recompute the numbers using another starting point for the prevalence estimate and the CDC definition

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of smoker?

A. There's been a lot of discussion around this whole issue, and I'm really not -- it's out of my league, in terms of the technicalities of it.

Q. Do you know who is leading that discussion?

A. Well, it would be the data and

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evaluation
unit.
Q. Do you have any knowledge or understanding as to whether there is data compiled by CATS and the BRFS studies that is maintained by the data evaluation unit?
In other words, do they have all of this raw data at their disposal?
A. They have a lot of data, yes, at their disposal.
Q. Is Michael Johnson still the head of the data analysis and evaluation unit?
A. No.
Q. Who is that now?
A. Bill Rupert.
Q. Have they issued any type of position paper on the disagreements arising out of Table 4?
A. No.
Q. Are you familiar with an organization in Los Angeles called the LA Refuge Coalition?
Does that ring any bells at all?
A. No, um-um.
Q. Are you familiar with a study that was performed in the early to mid 1990s commonly referred to

as the IOX, I-O-X, study?
A. I know a little tiny bit.
Q. Could you tell me what you know, please.
A. It was an evaluation of the media campaign.
That's all I know.
Q. Do you know if that evaluation was ever published in literature, whether peer reviewed or not?
A. No, I don't.
Q. Have you ever read the IOX report?
A. I don't recall.
Q. Do you know who the lead author on it was?
A. Jim Poppin.
Q. Where is Mr. Poppin today?
A. I don't know.
(Defendants' Exhibit 123 was marked for identification)
MR. L'ORANGE: Q. Ms. Roeseler, if I could ask you to take a moment and look through the unmarked copy that runs from 1596 through 1631. You've also been provided with a marked copy, Exhibit 123.
Have you ever seen a document like

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this, or
this document, in the past?
Do you recognize it at all?
A. I haven't seen this document.
It looks to me like someone had a search run
of our project directory database.
Q. Now can you tell me what information is contained in the project directory database?

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A. The project directors receive a survey and
they indicate their objectives, several main strategies
that they're working on.
They identify the populations that they're
working on, the priority areas that they're working in.
Q. And all this is maintained in the database?
A. Yes.
Q. Now do you recognize this as a search for
Tobacco Control Section funded projects that deal with
ETS? Upper left-hand corner.
A. Yeah, but the problem with this, you don't
know the term that these projects cover.
Q. You ought to be on this side of the table,
because that was my next question. Can you tell me the
years that are being covered here?
A. This is a problem in the database.
Q. So we don't know whether this covers the
entire ten years of the program or some portion other
than the ten years, true?
A. That's right.
Q. When you said this is a problem with the
database, the database does not track by years?
A. I don't know what they did.
But whenever I ask, I want to know what the
term is, they don't give it to me.
Q. Is there any way you can look at this, either
by the competitive grant, what they're doing, to tell
whether we are dealing with a summary document of the

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last ten years, or does this encapsulate some period
within that ten years?
A. I would say this is not for the entire
ten-year period.

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Q. In the far left-hand column where you have a description of the competitive grant, is that taken off a document or is that someone summarizing from discussions with the particular grantee or do you know?

A. What the project directors do when they fill out this survey is they try to summarize the main activities that are in their scope of work, so they have written these. They may have been edited by TECC or by our staff.

Q. TECC?

A. The Tobacco Education Clearinghouse of California, so that we have consistency in use of language.

Q. Now the project director is the person who was actually administering the competitive grantee?

In other words --

A. Right.

Q. -- the person in charge of it?

A. Right, right.

Q. And are those persons the people who have generally prepared the responses to the RFPs?

A. Most of the time.

Q. So that the description of their activities is actually prepared by them, i.e. the project director,

and that's what's entered into the database?

A. Correct.

Q. Just so I understand what we have here in the document, when you typically ask for a printout, for instance, of ETS funded projects, are there other fields that print out, other than the summary of the activity, the project director, and the address and phone numbers?

In other words, if I wanted to go back and run this for individual funding for each of these programs, would I be able to get a feel for funding?

A. You may. I don't know.

I mean it's... The database has problems.

Q. To your knowledge, is there any document... any summary that breaks out the funding that shows what goes to each competitive grantee over the period of

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their contract?
A. Their contract will say, "Here's the term of the contract and this is the total dollar amount."
Each individual contract says that.
Q. Now once that amount is awarded, does it change at all during the duration of the contract?
A. Yes.
Q. Can it go up or down?
A. Yes.
Q. What are the factors that influence whether it goes up or down?
A. We multi-year fund our contracts, multi-year.
These are three-year contracts. The

legislature appropriates money on an annual basis, so we're guessing how much money is going to be available on the outgoing years, and so some years we guess wrong and we take money away. There was something called Section 43 cuts and Section 54 cuts that gave priority to the media campaign over local programs, so people took cuts because of that.
We... Sometimes people get augments to do particular activities to strengthen -- we're having trouble with smoke-free bars in Los Angeles, so we'll augment a contract down there to beef up the activities.
Q. Is augment a special request?
A. It adds more money into the contract to increase the...
Q. I understand the mechanism, but does the augmented request increase because of a grantee saying, "I've got more problems than I thought. I need to increase the scope of the operation"?
A. It could happen that way.
Q. What are the other reasons you would augment a contract?
A. Well, TEROC requested that we increase efforts around smoke-free bars in '98. So areas of the state where we were having problems, we identified contractors who were working on that issue and augmented those contracts. We also will -- we have the authority to extend our contracts for the life of five years, a

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total of five years, so periodically we will -- towards

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the end of the three-year period we send out a competitive augmentation process. So some of these three-year contracts turn into five-year contracts.

Q. Is there any budget or summary or compilation that you can think of that breaks out the total amount spent on ethnic networks, the community linkage programs that we have described, that would source the specific amounts of money spent by those organizations, either per year or for the total of the ten years the program is run?

A. There's nothing for the total of the ten years. The other part of the question was?

Q. Anything for individual years.

A. There's probably a document that does that for the current period.

Q. Is there a specific name to that document or...

A. There's a chart that I've seen that we're trying to plan out our money, but I don't -- there's not a name to it.

Q. With respect to the two budgetary documents that we talked about earlier, 119-A and B, are the ethnic networks and the regional linkage programs included in the local lead agency or competitive grant portion of the appropriated funds?

Where does their funding fall?

A. It's in a competitive grant line.

Q. Do we have any document that you're aware of

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that summarizes all of the funding that has been awarded to individual contractors over the ten years of the program? In other words, can I get a run that says over the ten years, here are all the contractors, here is all the money that's been awarded to those contractors?

A. There's no document like that.

Q. Can that document be created, if it were

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requested, to the best of your knowledge?
A. It would be very time consuming, but it could be created.
Q. To whom... If you decided you wanted to do that, who would that request be directed to?
A. Robin Shimizu.
MS. MOHR: Can we go off the record for a second?
MR. L'ORANGE: Yes, ma'am.
(A discussion was held off the record)
(Defendants' Exhibit 124 was marked for identification)
(Ms. Mohr exited the deposition)
MR. L'ORANGE: Q. Ms. Roeseler, if I could ask you to look at what's been marked as Exhibit 124, it's a two-page document. Have you seen this before?
A. Yes.
Q. Was your section involved in the preparation of this document?
A. Yes.
Q. Could you tell me what role they played?

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A. It was created by staff in the Tobacco Control Section.
Q. The data that's reflected in here, in 124, is it data that was collected by Dr. Pierce or is this a result of an independent group acquiring this data?
These data? And if it helps, you might want to look at the footnote at the bottom of 2450.
A. It appears to me that this is all from the in-house telephone survey.
Q. Is your section involved in any way in evaluating this data, or do the -- when the CATS personnel conduct their phone interviews, does the cancer surveillance section simply total the data and report the results to you?
A. They do summary analyses for us.
There may occasionally be staff at TCS who will do further analyses.
Q. Did you review this document before it was published by TCS?
A. I don't recall.
Q. Is this a document that basically is available to the public upon request?

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A. Yes.
Q. Do you have any reason to believe that the percentages that are set forth in the document are inaccurate in any way?
A. No.
Q. Has there been any attempt to determine...

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Strike that. Let me rephrase the question.
This is a clumsy way of going at it, but has there been any attempt to determine what portion of the

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